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A Journal of Politics and the Arts — May 2, 1970, 50 cents

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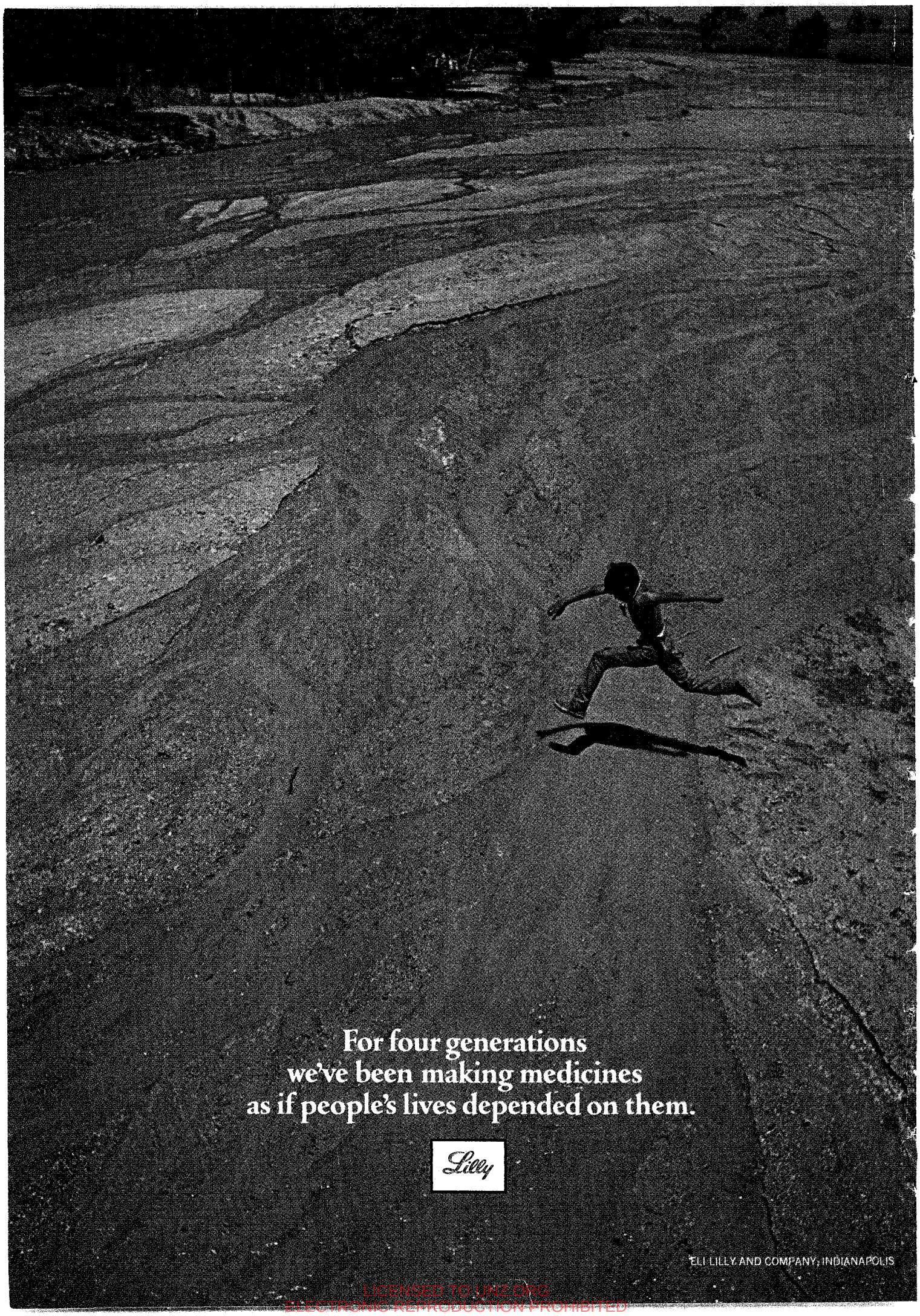
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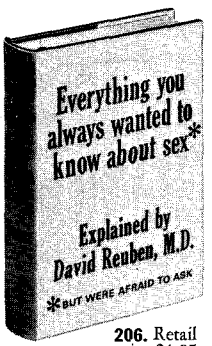

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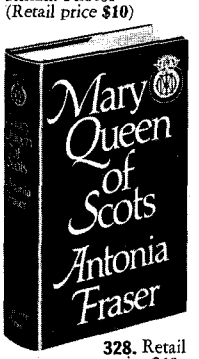

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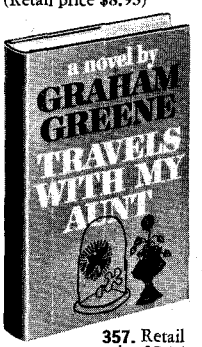

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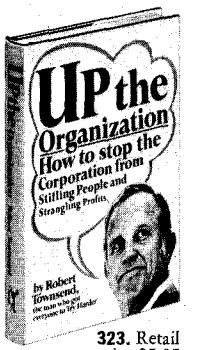

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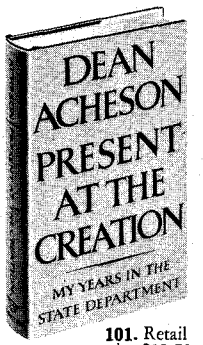

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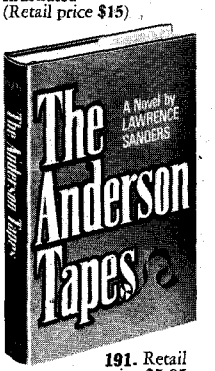

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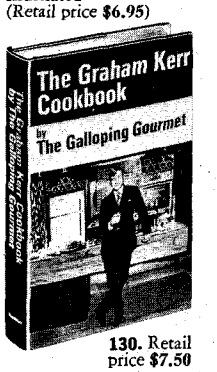

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May's child.

What is television doing to our children?

There are some who say television gives children strange ideas. Right. And here are some ideas your children may get from television in May.

They might be intrigued by oceanography or marine biology. Maybe being a potter, or a photographer, or a sculptor will catch their eye. Perhaps they'll be led toward conducting, or writing.

Of course, May brings bitter as well as sweet. Your children will see what we have done to our world, and it won't all be pleasant. They'll find out what ecology is, and what it can mean to the rest of their lives. Television feels bound to report to your children the bad as well as the good. Because they—and you—have the right to know and the need to know.

So for May, then, some programs to open young minds.

Teacher, Teacher. Hallmark Hall of Fame—Drama about mentally-retarded youth, with David McCallum, Ossie Davis, George Grizzard. Saturday, May 2 (7:30-9 pm).

Discovery. The Young Oceanographers; Thundering Waters of Niagara; Lights, Cameras and Underwater Adventure; Strangest Mammals of All; The Great Salt Lake. Sundays, May 3, 10, 17, 24, 31 (11:30-12 Noon).

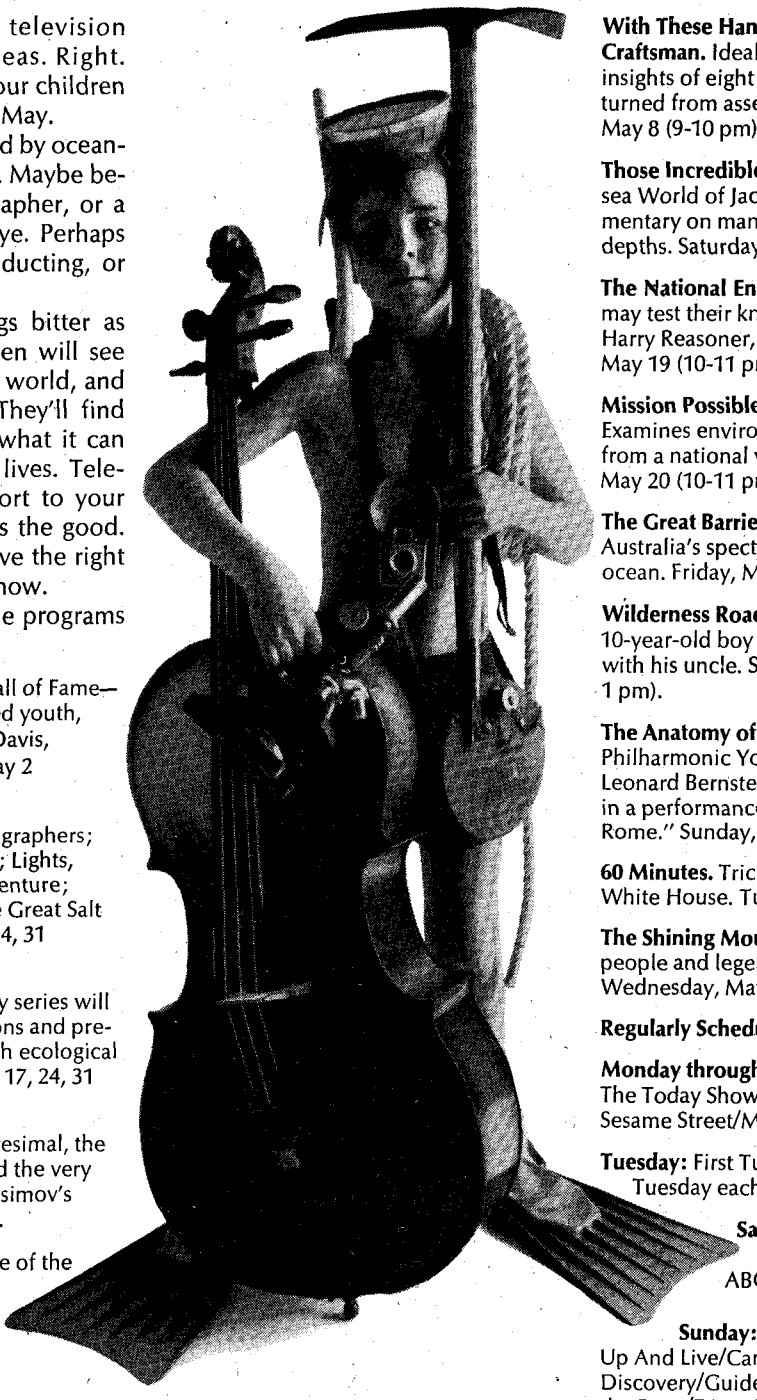
In Which We Live. New weekly series will explore environmental situations and present concern of Americans with ecological problems. Sundays, May 3, 10, 17, 24, 31 (5:30-6 pm).

The Unseen World. The infinitesimal, the very distant, the very quick and the very slow are highlighted in Isaac Asimov's script. Sunday, May 3 (8-9 pm).

Now. Black Mayor in Dixie; Eye of the Storm; Missing in Randolph; Women's Liberation. Mondays, May 4, 11, 18, 25 (10:30-11 pm).

Once Before I Die. GE Monogram—Report of seven amateur mountaineers climbing Himalayas. Tuesday, May 5 (7:30-8:30 pm).

Cartier-Bresson's California. Impressions of section of American life by French photographer. Tuesday, May 5 (10-11 pm).



With These Hands: Rebirth of American Craftsman. Ideals, viewpoints, creative insights of eight Americans who have turned from assembly line methods. Friday, May 8 (9-10 pm).

Those Incredible Diving Machines. Undersea World of Jacques Cousteau—Documentary on man's drive to master ocean depths. Saturday, May 16 (7:30-8:30 pm).

The National Environment Test. Americans may test their knowledge of ecology, with Harry Reasoner, Mike Wallace. Tuesday, May 19 (10-11 pm).

Mission Possible: They Care for a Nation. Examines environmental deterioration from a national viewpoint. Wednesday, May 20 (10-11 pm).

The Great Barrier Reef. Exploration of Australia's spectacular shield against the ocean. Friday, May 22 (7:30-8:30 pm).

Wilderness Road. American Rainbow—10-year-old boy studies Arizona's wildlife with his uncle. Saturday, May 23 (12 Noon-1 pm).

The Anatomy of a Symphony. New York Philharmonic Young People's Concerts—Leonard Bernstein conducts and narrates in a performance of Respighi's "Pines of Rome." Sunday, May 24 (4:30-5:30 pm).

60 Minutes. Tricia Nixon conducts tour of White House. Tuesday, May 26 (10-11 pm).

The Shining Mountains. Project 20—The people and legends of America's Rockies. Wednesday, May 27 (10-11 pm).

Regularly Scheduled Programs

Monday through Friday: Sunrise Semester/ The Today Show/Captain Kangaroo/ Sesame Street/Misterogers' Neighborhood

Tuesday: First Tuesday (appearing first Tuesday each month)/ CBS News Hour

Saturday: The Banana Splits Adventure Hour/Jambo/ ABC's Wide World of Sports

Sunday: Lamp Unto My Feet/Look Up And Live/Camera Three/Bullwinkle/ Discovery/Guideline/Face the Nation/Meet the Press/Directions/Issues and Answers/ G-E College Bowl/Wild Kingdom/The Wonderful World of Disney

Note: This is, necessarily, a partial listing. Time (NYT), titles and casts of these national programs are subject to change. Please consult your station listings; check also for noteworthy local programs.

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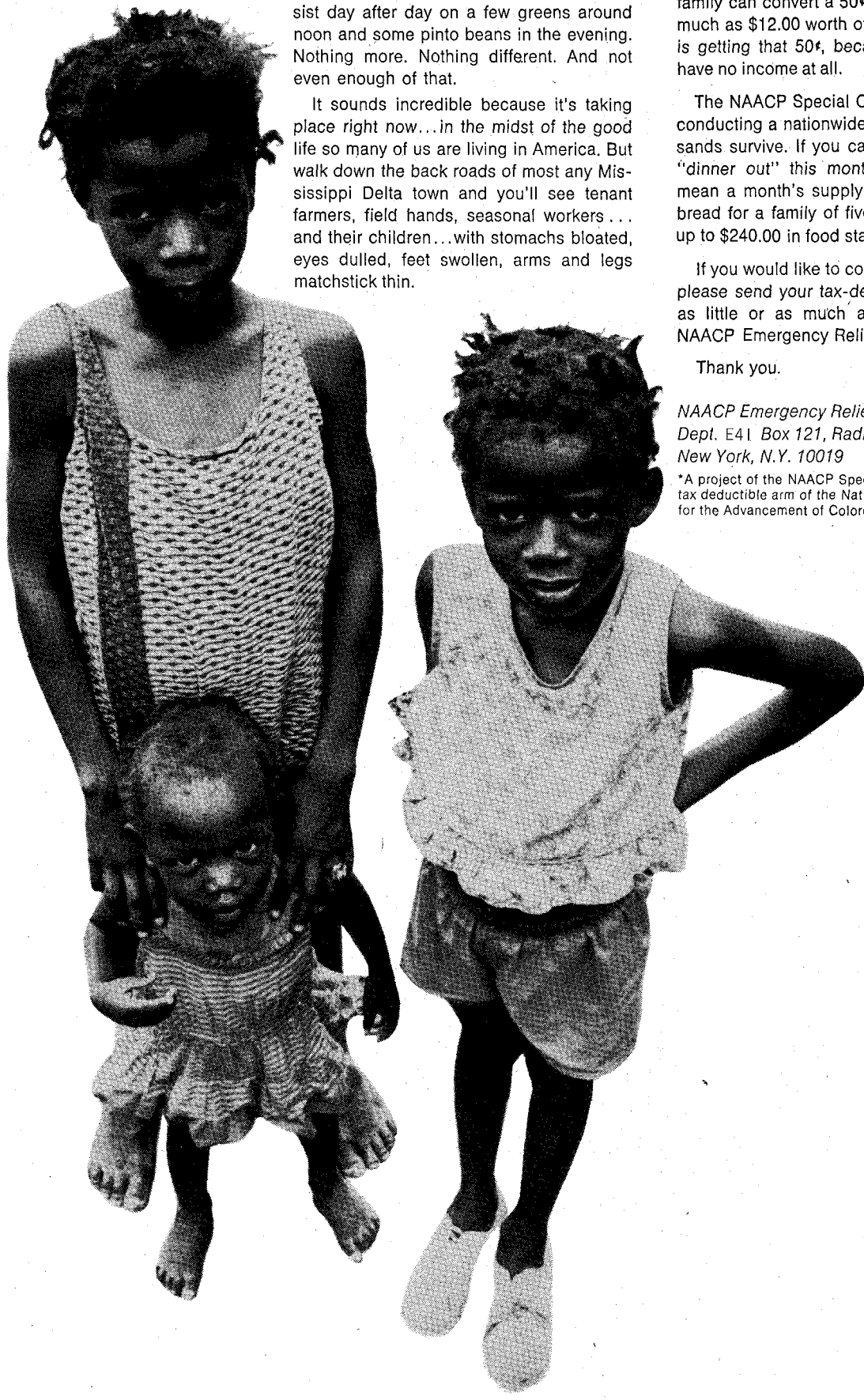
Your $10 gift to these hungry kids can bring them $240 worth of meat, milk and bread.



These kids go through life never knowing what it is like *not* to be hungry. They subsist day after day on a few greens around noon and some pinto beans in the evening. Nothing more. Nothing different. And not even enough of that.

It sounds incredible because it's taking place *right now... in the midst of the good* life so many of us are living in America. But walk down the back roads of most any Mississippi Delta town and you'll see tenant farmers, field hands, seasonal workers . . . and their children... with stomachs bloated, eyes dulled, feet swollen, arms and legs matchstick thin.

The irony is that they aren't starving at a rate dramatic enough to arouse the indignation of the nation and the world. Otherwise something would have already been done.

One of the programs that is aiding many of these families is the federally sponsored Food Stamp Plan. Under this plan a needy family can convert a 50¢ food stamp into as much as $12.00 worth of food. The problem *is getting that 50¢, because many families* have no income at all.

The NAACP Special Contribution Fund is conducting a nationwide drive to help thousands survive. If you can do with one less "dinner out" *this month, the money can* mean a month's supply of meat, milk, and bread for a family of five. Just $10.00 buys up to $240.00 in food stamps.

If you would like to contribute to this fund, *please send your tax-deductible check, for* as little or as much as you can, to the NAACP Emergency Relief Fund.

Thank you.

*NAACP Emergency Relief Fund**
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from Washington

Nixon the Socialist

"Passage of this bill puts a premium on the production of illegitimate children!" cried Rep. Gross (R) of Iowa.

"We are participating in the creation of a new feudal system," charged Rep. Rarick (D) of Louisiana.

"It is a lame attempt to discredit the President," darkly suggested Rep. Price (R) of Texas. And Rules Committee chairman Colmer (D) of Mississippi, 80, moaned that he hardly knew what to do in the "most controversial, most important, most complex and disturbing piece of legislation" in his 38 years in Congress.

The author of this legislative dynamite stick – "socialistic" is its critics' mildest epithet – is, of all strange people, Richard Nixon. It is the Family Assistance Program. All it would do is to put an income floor under everybody, and the roar of protest you don't hear coming out of Washington today is from quivering conservatives gaping with dropped jaws at their peerless leader. Yes, if Truman had launched it, or FDR, or Kennedy or Johnson, the sonic boom of rage would have blown the petals off the cherry trees. There are some protestors of course and we mentioned Rep. H. R. Gross, the little eagle of Waterloo, Iowa. But he and his friends hardly count, they're against everything anyway. He's like the man who hates birds so much he vows to leave no tern unstoned.

Just to give the flavor of the measure, here's what Daniel Pat Moynihan, White House adviser, told the National Jewish Welfare Board: "Simply put, it is a proposal to place a floor under the income of every American family. Whether the family is working or not. United or not. Deserving or not."

One does not normally associate ideas like that with Mr. Nixon's life style and some broken-hearted fellow Republicans like Rep. Price, cited above, believe it is all a subtle kind of plot. "Liberal members of the majority party," he told the House, "want to fabricate a campaign issue for the November elections." In other words Price charged liberals with supporting what Mr. Nixon advocated on television, last August, in order to destroy him.

It is, without doubt, the most important piece of social welfare legislation since the original social security act – and it may go beyond that. It would add 12 million people to the 10 million now on welfare at a starting cost, July 1, 1971, of $4.5 billion. The paper work would be staggering. Means test forms for each family would have to be filed, and kept up to date, and made subject to spot checks. And that's only the start of it. Adult recipients would be required to take jobs, or training, on a "work-or-else" basis. Exceptions would be mothers with small children. Mr. Nixon sold his proposal to conservatives in a flood of conservative rhetoric and the work requirement is supposed to be an essential part of the plan. Economist Arthur Burns, former White House counsellor and now head of the Fed, opposed the program and was overruled, but helped get the mandatory work feature adopted.

It is doubtful if the work feature will work. Fitting millions of miscellaneous workers into appropriate jobs, even after training, seems like an endless task, and how do you do it if there is no work available? The only way I can think of is for the government to make itself the employer of last resort. If the government requires applicants to take jobs, then the corollary would seem to be that it must find or offer jobs. But that is a bridge yet to be crossed.

What are the virtues of the program? They are so great that in spite of all odds they have won over Mr. Nixon himself and the only less likely convert, the folksy, august, surprisingly independent Wilbur Mills (D) Ark., chairman of the Ways and Means Committee. The House passed the bill, 243--155, with Mr. Mills' evangelical support. The Senate will almost certainly follow.

Present welfare is in a mess. Historians will tell of a system that prompted men to quit home because families got more money when they deserted. Thirteen percent of Americans live below the poverty level and the federal government pours out billions and yet less than half receive assistance. State grants are so wildly uneven that a family of four gets $828 a year in welfare from Mississippi and $4164 in New Jersey. Naturally the black family lit out for the North in one of the greatest mass migrations in history.

The proposed new plan, FAP, would institute a national system. A family of four without other income would get $1600, plus $800 in food stamps, plus state aid. There would be incentives to take the money and earn more. Pilot tests indicate that when poor families get small government checks they do not sit back and loaf, but go out ardently and whirl the squirrel cage harder than ever. This flies in the face of all middle-class prejudices but seems to be verified. There would be day care centers for working mothers under the plan and, for the first time, it would include the so-called "working poor."

If you believe that disparity of income is one of the dangers in America you are likely to approve FAP. Somehow or other, by a system of trial and error, it is going to be put into effect and there seems no doubt that it will help to lift up the poor. Maybe it will stimulate them to climb out of poverty as supporters expect. This radical plan, once adopted, will be just the start. Nobody today would repeal Medicare or the original social security act, and yet they are costing vastly more than advocates forecast at first.

Wilbur Mills turned to conservative Southern friends at one point in the floor debate. "Who are the working poor?" he asked. "Over 50 percent of the families covered live in the South; only 12 percent live in the Northeast. A high proportion of such families live in rural areas and on small farms; 70 percent are white, 30 percent nonwhite." One can hardly imagine what a more equable distribution of national income would do in areas like this and yet the prospect is that the bill will soon be law. If the plan starts July 1, 1971, there's precious little time to get the huge machine rolling. John Montgomery, former director of Social Welfare in California, now at HEW, is likely to run things. Pilot tests to see what recipients do with their money are underway, with real families and real checks. Now Washington wants to try out details with a small state. Vermont seems likely.

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Peace and Politics

What happened to President Nixon's hope, expressed last June, of getting all American combat troops out of Vietnam by the end of this year? According to his latest, April 20 pronouncement, we will still have 300,000 troops there a year from now, not to mention all the American military hardware in the hands of assorted Asian generals. So although the President says he is very pleased with the way the fighting is going and confident "that the South Vietnamese can develop the capability for their own defense," he isn't *that* confident. Nor has he any better explanation than Lyndon Johnson had, of why the Saigon regime needs to have on hand that many American troops whose enormous firepower far exceeds anything North Vietnam can put in the field, even with Russian and Chinese help; nor why keeping one set of rulers in power rather than another in Vietnam has so commanding a claim on our loyalty, resources and men. These are the questions he is going to be pressed to answer as the war drags on at least one more year.

Mr. Nixon and Defense Secretary Laird may deserve about half a mark each, for seeming to reject – reportedly after long, anguished conferences – the demands of General Creighton Abrams and the Joint Chiefs of Staff for a pause in troop withdrawals. Whether the rejection is significant or only assumed in order to placate public opinion is unclear; no month-by-month withdrawal timetable has been made public. But at any rate the President is committed to a target of 150,000 fewer troops in Vietnam a year hence.

That declaration of intent is coupled, however, with disquieting remarks about this country's obligations. "The enemy demands that we . . . overthrow the elected government of South Vietnam," Mr. Nixon said indignantly, thus again giving official credence to the fiction that the Thieu regime is the only one which could and should represent the people of the South, and that its survival is a sacred trust. The President takes no note of Thieu's political prisoners – not counting Vietcong supporters, but including neutralists, members of the National Assembly and one presidential candidate – who number in the thousands. The South Vietnamese press, indeed all dissent, is muzzled. If it were not, there would surface a broad-based peace movement and new leadership in Saigon eager to reach a cease-fire agreement with "the enemy," as prelude to elections and a negotiated

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political settlement. The Thieu-Ky regime can block this now only because it has solid American backing.

Mr. Nixon's secondary justification for being in Vietnam, though absurd, is almost preferable because it doesn't pretend to make sense: we're there because we're there. "America," he said, "has never been defeated in our proud 190-year history and we shall not be defeated in Vietnam." Running up the flag is always good for a cheer or two, but it won't help the Administration do what it avows it means to do – negotiate an exit from Vietnam altogether. The American people have never accepted the idea that our national honor, or security, obliges us to serve Thieu and Ky by sacrificing 5000 to 10,000 lives a year. Yet that is what we are doing. And "the enemy," Hanoi, keeps right on saying that negotiations will stay stalled as long as American bayonets hold Thieu immovably in place.

Public patience is wearing thin, and Mr. Nixon's precarious political advantage requires the unwinding of the war. He acknowledges that when he says, "There is a better, shorter path to peace" than just Vietnamization – "through negotiations. . . . We desire nothing more than the opportunity to withdraw all American forces. . . . A political settlement is the heart of the matter. It is what the fighting has been about in Indo-China for 30 years." In South Vietnam, specifically, "a fair political solution should reflect the existing relationship of political forces. We recognize the complexity of shaping machinery that would fairly apportion political power in South Vietnam. We are flexible. . . ." These would be ominous words for President Thieu if they were acted upon. However complicated the machinery, if it resulted in a fair apportioning of political power truly reflecting existing political forces in the South. Thieu's political disappearance would be assured, and the outlines of a settlement among the Vietnamese would become visible.

But how seriously can we take Mr. Nixon's words? The Administration has permitted the war to widen – and that is an extremely charitable judgment. Senator Symington and others have rightly expressed anger at official deception over Laos, where hundreds of American military and Intelligence officers have long operated amid repeated denials they were there at all. Now Secretary of State Rogers emphasizes, on April 18, that "we have extended – and will continue to extend – military assistance to the Laotian government in order to help it maintain its neutrality." And he warns that "the sharply increased fighting in Laos and the possibility of overt war in Cambodia affect the safety of our own forces in South Vietnam and the prospects for peace there." Two days later, the President added: "If I conclude that increased enemy action jeopardizes our remaining forces in Vietnam, I shall not hesitate to take strong and effective measures to deal with [it]."

In short, there is danger of Laos becoming another Vietnam, and Cambodia degenerating into another Laos. Can Mr. Nixon, in light of his bold words about taking "strong and effective measures" against "aggression" that "jeopardizes" the troops in Vietnam, withhold the military aid that Cambodia's new military bosses were last week begging for, after they had lost more Cambodian territory to the Vietcong in a month than Prince Sihanouk lost in 16 years? The President has already authorized the sending of small arms to Cambodia, and has viewed with benign neglect the advance of South Vietnamese troops into that country. The Pentagon is scared that it will "lose" Cambodia in the next few weeks, because of the poor training, lack of arms, bad morale and generally pitiful state of the Cambodian army. At the same time, our euphoric military have visions of a golden opportunity to get in there and win the entire ball game in Indo-China. The argument Mr. Nixon has got from them is that if a rescue operation is staged quickly in Cambodia it could turn the tables in Vietnam.

Congress is seething from the Executive's stealth and seeming duplicity; public opinion is with Congress. The Gallup Poll shows 46 percent favoring either immediate withdrawal from Vietnam or withdrawal in 18 months; only 38 percent appear satisfied with "Vietnamization." Mr. Nixon's numbers game with American casualties makes matters worse. "In the first three months of 1970," he says, "the number of Americans killed in action dropped to the lowest first-quarter level in five years." Bureaucratese. What sticks in people's throats is that in the week ended April 10, 141 Americans died in Vietnam, suggesting that casualties are sharply climbing again. On the day the President spoke, 100 Methodist bishops representing 11 million parishioners called for faster withdrawal and denounced the war as "a fiasco impossible to justify." Mr. Nixon's juggle with figures confirms the forthright view of Representative Abner J. Mikva (D, Ill.): "The truth is that Vietnamization is a wall behind which to conceal indefinite American participation in Vietnam – a shield for the President and Secretary Laird to protect themselves from those Americans who want this war to end."

What can "those Americans" effectively do now? Pressure on the White House and Congress will not be sustained, it will be weakened, by further mass marches. The closing of the Vietnam Moratorium offices last week signaled the transition of the anti-war movement from street demonstrations to pragmatic, political activity. The April turnout for sundry protests (taxpayer rallies, a fast, leafleting, rallies) was smaller than expected, and the larger rallies were disrupted by rock throwing, arson, tear gas. The violence-prone may take to the streets, but that is not the battlefield on which gains can now be made; the objective of many of these militants, moreover, is not so much to end the war in Asia, as to ignite a revolutionary struggle here at home. The peace-minded will put their energies into electing candidates next November who will vote peace.

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Post-Moratorium

Even as the peace movement was undergoing its transformation, lobbyists were swarming around the headquarters of the latest youthful protest movement, Environmental Action Inc., at 2000 P St. N.W. in Washington, D.C. And well they might. Last week, millions of anti-polluters took part in thousands of "Earth Day" teach-ins, marches and special programs on 2000 campuses, in 2000 communities and in 10,000 high schools.

At the second-floor offices of Environmental Action, posters, dress and rhetoric are little different from those in the now-abandoned Vietnam Moratorium offices a few blocks down the street. The style hasn't discouraged the lobbyists, who recognize a "comer" on sight. The first thing they asked for, according to Steve Cotton, a young man with long locks and a flowing mustache who presides over public relations, was the mailing list of "key" campus and community contacts. Instead, they received a brochure, a newsletter and were put on a mailing list themselves.

There have been visits from corporate officials, such as a vice president in charge of public relations for Ford Motor Co. There have been offers of money: Mobil Oil wanted to invest $15,000; Ford, $5000; Standard Oil of New Jersey, $2500. They were turned down. After meeting with Dennis Hayes, the former Stanford University student body president who heads up Environmental Action, and a couple of his associates, the men from Atlantic-Richfield knew better than to suggest making a contribution.

A call came from Presidential aide John Ehrlichman, inviting Hayes to drop by for a chat. Hayes was on the road at the time and didn't call back when he returned. The explanation: "There was already a suspicion in the countryside that environment is the kind of issue politicians and industrialists can make a good impression on without doing much." There were other reasons for coolness to the White House. Cotton thinks President Nixon's $4 billion water clean-up proposal "hilarious," citing a figure of $100 billion as being more realistic. He and others also didn't like Mr. Nixon's equation of "litter bugs with industrial polluters" in the message to Congress earlier this year.

Is this latest protest "fad" an easy cop-out for middle-class white liberals, an escape from old battles not yet won? Or do we now have triplets – war, racism *and* pollution? Leaders of Environmental Action say "yes, it's triplets." A lot of their constituency shares this feeling. In Miami, a "dead orange" parade was organized by the New Party in Florida, an outgrowth of the '68 McCarthy movement. It followed the route of the traditional Orange Bowl parade and featured signs such as, "From the people Who Brought You the War in Viet Nam, Here's Pollution." In St. Louis, ghetto housewives did their own version of guerrilla theater with a low key skit featuring rats and roaches and how the clothes turn black on the line on wash day. They call their group "Black Survival." In Albuquerque, thousands of "chicanos" organized by the United Mexican-American Students at the University of New Mexico marched on a sewage treatment plant located in a low-income area, to dramatize the pollution of *barrios* in the Southwest by facilities that would never be tolerated in more affluent neighborhoods. Whether traditional conservation groups, or the ladies in the Garden Clubs of Mississippi, who pitched in on Earth Day because their flowers aren't growing so nicely any more, will make the connection between war, racism and pollution remains to be seen.

One promising element is the response of blue collar workers who have scorned antiwar movements. Labor leaders throughout the country got into the new act April 22 without fear of reprisal by the rank-and-file.

Hayes and his colleagues began as an educational, tax-exempt group called Environmental Teach-In, Inc. Recently, they incorporated Environmental Action, Inc., as a non-tax-exempt, action organization. They will be getting into politics this fall, perhaps even endorsing some candidates. Their appeal cuts across race and class. Every one's interested in survival.

Let's Get Douglas

Little boys who tie tin cans to puppy tails grow up and sometimes get elected to the House of Representatives, where they can do real mischief. For instance, they can throw rocks at a 71-year-old Justice of the United States Supreme Court.

Mr. Justice Douglas has said a great many things, not all of them prudent. He has written and lectured, off the bench and on, for 38 years. He is controversial, and he has his serious critics. But even they credit him with having one of the best legal minds of his generation. However, neither lengthy public service nor legal acumen can keep a pack of 110 Republicans and Southern Democrats in the House from hounding him. Led by the Minority Leader, Gerald Ford of Michigan, and a witch doctor from New Hampshire, Rep. Louis Wyman, they want to get Douglas. They say they object to his "improprieties." They mean they don't like his dogged defense of the rights of the deprived and the defenseless. And they are spittin' mad over what the Senate (and liberals) did to Haynsworth and Carswell. So they hope to persuade their colleagues to investigate Mr. Justice Douglas, with a view to impeachment. The White House has responded by not responding;

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the Presidential press secretary will say only that Mr. Nixon has not been involved.

To get the smell of this gamey maneuver, one must read the speech made on the House floor April 15 by Mr. Ford in support of an investigation. It runs to 21 legal-size pages. It ties, or tries to tie, Justice Douglas to everyone from Juan Bosch and Bobby Baker to Bugsy Siegel, "Ice-Pick Willie," Meyer Lansky ("one of the country's top gangsters"), "the international gambling fraternity," the "pornographic publishing trade," and "Dr. Robert Hutchins and his intellectual incubators for the New Left and the SDS and others of the same ilk." The Justice is accused of "moonlighting" in Santa Barbara and of having something to do with plans "for violent campus disruptions of the past few years." He is described as the author of an article that "praises the lusty, lurid and risque" and of a "fuzzy harangue evidently intended to give historic legitimacy to the militant hippie-yippie movements."

Talk about improprieties!

Eighteen-year-old Vote

As a crucial bill extending the Voting Rights Act of 1965 moved through the Senate toward passage earlier this month, a group of liberals attached a rider to it which would extend the franchise to 18-year-olds in local, state and federal elections. Giving them that right won't revolutionize American politics; remarkably few of the young exercise it. But there is broad, bipartisan agreement (Nixon to Kennedy) they *should* be given it; the question is, how? Legislation by rider is not a practice that most of the liberal senators approve of in their soberer moments, and its use in this instance illustrates its vices.

While there are constitutional lawyers who believe that under recent Court decisions, Congress is authorized to take over from the states their traditional function of setting age and other qualifications for voting, there is equally persuasive and learned opinion to the contrary. The Senate's rider is thus of dubious constitutionality. The issue of the 18-year-old vote, as now presented, exerts what Justice Holmes once referred to as "hydraulic pressure." Should the Supreme Court uphold the constitutionality of the Senate rider under this pressure, it would launch a doctrine whose radiations are unpredictable, and in many applications quite possibly disadvantageous to the interests that sponsors of the rider care most about. The Court will have worked an historically significant shift in the balance of functions between the state and federal government. It has done so before; it may do so again. But the outcome is in doubt, and the wisdom at this time of requiring the Court to decide is questionable.

On the other hand, should the Court withstand the "hydraulic pressure" and declare the Senate rider unconstitutional, it would expose itself to the wrath of all those whose expectations it would defeat, and in the bargain cause confusion about the results of elections that may already have been held under the provisions of the rider.

These are the problems to which the proposal for legislative enfranchisement of 18-year-olds gives rise. They could be bypassed by traveling instead, and as rapidly as possible, the route of a constitutional amendment – the route that was taken to guarantee suffrage to women (the 19th Amendment), to permit District of Columbia residents to vote for President (the 23rd) and to abolish the poll tax in federal elections (the 24th). Unfortunately, the decision now to go this route creates new perplexities. For any effort by the House to detach the Senate rider from the Voting Rights Bill will require sending that bill to a Senate-House conference committee (chaired in all probability by Sen. Eastland of Mississippi) and thereafter at some point to the Senate floor. That in turn would open an opportunity for a Southern filibuster, which previously was avoided by making a vote on the Carswell nomination conditional on a prior Senate vote on the Voting Rights Bill.

Extension of the Voting Rights Act is of paramount importance, especially to still-disenfranchised blacks in the South. One must therefore ask whether it was worth the risk to insist on giving 18-year-olds the vote by a questionable legislative method, rather than waiting, and it need not be a long wait, for the enactment of a constitutional amendment. The constitutional dilemma is real, and if the risks to the Voting Rights Bill do materialize, the responsibility will not be that of a group of Senate liberals alone, but their share of it will be a heavy one.

Will Finch Flinch?

Has HEW Secretary Finch led us up the hill only to march us down again? On March 25, he proposed a higher Social Security tax to head off impending bankruptcy in the Medicare hospital insurance trust fund and urged that Medicare physician's fee limits be set at 75 percent of fees charged in 1969, with adjustment by region. But his most important proposal by far was a prepayment plan for comprehensive, preventive health care.

The statement caught influential medical men by surprise. They quickly rallied, however, and now may

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have persuaded HEW to tone down its requests. The American Medical Association's formal position is that the matter is "under study," but one AMA official has already said, "I don't think we'll embrace this proposal by any means." Preventive screening, HEW was warned, would tempt physicians to collect yet another windfall of unpoliced Medicare fees. The warning is bogus. A sliding scale of diminishing fees for extra tests could be developed, as has been done successfully in many other countries.

If HEW does back down before it sends specific proposals to the House Ways and Means Committee, it will do so because it did not feel very strongly about its recommendations in the first place. It was moved, not so much by the conviction that real reform is necessary, as by the desire to get out something – practically anything – before the Administration is upstaged by Rep. Wilbur Mills, who has some tough ideas of his own about Medicare and Medicaid. Also, the Department has felt under pressure to reply to a recently completed report, *The Federal Government in Health*, prepared by Senator Ribicoff's Subcommittee on Executive Reorganization and which documents the inefficiency and duplication of present facilities and programs. In casting about for ideas, HEW rummaged through materials gathered for a long-awaited but now definitely scrapped Presidential health care message and came up with the March 25 plan.

The wavering at HEW is disappointing. We know that comprehensive, prepayment programs such as those of the Group Health Cooperative of Puget Sound, the Health Insurance Program of New York, and the Kaiser Foundation Health Plan are saving their subscribers a lot of money, and that if Medicare and Medicaid beneficiaries were helped into such plans, they could get better care at less cost to taxpayers. If all our personal health care were bought right now from such plans, we would save an estimated $800-million a year, or two percent of what we pay at present. Hospitalization is now the most expensive and inflationary part of our health care bill. Outside such plans, four hospital beds are needed for every 1000 of population served; inside, two beds per 1000 suffice, because office and outpatient services are more intelligently used. Drug costs nationwide average $16 per person annually; in the Puget Sound plan, they average $8.80. Personal health care today averages about $230 per person; it is below $150 in some group practices. We should be doing everything we can to get more people into prepayment plans. A good way to begin is to make it possible for Medicare and Medicaid patients to buy the plans' services.

Perhaps Secretary Finch will reconsider before junking the most practical idea HEW has had since he arrived in Washington. If carried through, it could lead to comprehensive, prepaid national health insurance for all Americans, which is what we need.

The Nixon Watch

Rage at the White House

San Clemente, Calif.

The image of Richard Nixon that seems to be fixed in the minds of his closest servitors is so firm that they are slow to notice or acknowledge change in the man. Some among them say that the President is in all essentials of mien and behavior exactly as he was when he took office 15 months ago. They would say this even if it were pointed out to them that Nixon in the Presidency has never before behaved as he did on the day that he delivered his latest Vietnam speech from here, and as he had over the preceding weekend and throughout the period of unusual pressures that have borne upon him with increasing force since early March. He decided last Friday, in a burst of elation after watching the splashdown of the imperiled Apollo astronauts, to fly 5000 miles across the Pacific in order to be seen in his brief act of honor to them. He decided here, on equally sudden and unwonted impulse, to fly back to Washington right after making his Vietnam broadcast instead of resting a second night, as he had planned, at his handsome home beside the sea. A reporter in the President's press party, mindful of Lyndon Johnson's addiction to abrupt movement and change of plan, was not altogether jesting when he said, "It will be funny, won't it, if the new Nixon turns out to be the old Johnson."

Some who serve Nixon, however, have noticed changes in him during the recent weeks of backfire from his inaccurate and unconvincing Laos statement on March 6; the strikes of postal workers and air controllers; the worsened situations that have confronted him in Laos, Cambodia, the Middle East; troubles with Congress over appropriations, inflation, defense and racial policy; and, finally and most apparent in its effect upon him, the second rejection of his two Southern nominees for the Supreme Court. The facade of imperturbability, the impression of cool efficiency and immunity to pressure that he and his assistants labored hard to construct and sustain during the prior months, have been cracked beyond repair.

At a meeting in his office in March, somebody remarked that the group should discuss what to do if Congress recessed for the Easter holiday without passing a delayed appropriation bill. Nixon startled his companions with the harsh ferocity of his response: "There will be no discussion! That decision has been made! They will have to come back!", meaning that he was determined to call the laggard legislators back in special session if need be. Toward the end of the mail crisis, when somebody suggested

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in the President's presence that the postal unions might not be as thoroughly committed to support of his revised postal reforms as he had been led to believe and tried to make a joke of the uncertainty, Nixon said with chilling and astonishing intensity, "Let's stop this horsing around! It's time to start talking turkey!" The abrupt reactions, the manner and tone, were new to the Nixon Presidency, rare in occurrence but interesting in a man who had written years ago, in his *Six Crises*, of his self-discovered need to keep his impulses under rigid control and never, never to react to anything upon the heated instant. He liked to tell new associates, when he was training them for the 1968 campaign, that anger could be a useful trait in politics, useful if it was displayed in the right way at the right time. Display it, he said, only after the real anger had passed and then only when a controlled show of rage would serve an intended purpose.

The preferred story of the White House is that this is precisely what he did in that unforgettable two minutes on the afternoon of April 9, the day after the Senate had refused to confirm his nomination of G. Harrold Carswell for the Supreme Court. Then he stood before the White House press corps and television cameras and accused the 61 senators who had voted against one or both of his Southern choices of hypocrisy, vicious character assassination, sectional prejudice, and gross disregard of his, the President's, right and power of appointment. Contrived though his show of anger may have been, it left those of us who witnessed the performance in person frozen in our chairs for seconds after he whirled from the microphones and, with Attorney General Mitchell behind him, vanished from our view. The President's spoken remarks were derived from an even stronger and, in its language, more impassioned written statement that we were handed after he had returned to the Oval Office. The story of how that statement came into being does not invalidate the favored explanation that what we and televiewers saw was not real anger but a calculated simulation of anger. But it does demonstrate that Mr. Nixon acted on that ocassion with a good deal less than his accustomed caution and control.

A general supposition has been that the statement and the spoken summary of it were talked out and thought out in the President's hitherto characteristic fashion the previous evening, when he took Mitchell and H. R. Haldeman, one of his chief assistants, with him for dinner aboard the yacht *Sequoia*. They discussed Carswell's defeat, the earlier defeat of Clement Haynsworth, and the President's continuing Supreme Court problem, along with other matters. But the President and his dinner guests had no idea then that Nixon would do what he did the following day. Near noon of that day he suddenly ordered preparatory work to be done, in a rush, on a statement or speech that was to deal with his Court problem in quite different and less abrassive terms. At around 2 P.M. Haldeman, speaking for Nixon, telephoned Patrick Buchanan, a White House staff writer, and instructed him to whip into shape, as soon as possible, a statement making the main points that Nixon later made. The version that had been ordered earlier went into limbo. At 3 P.M., when Mitchell joined Nixon in the President's office, Buchanan's draft was complete and in hand. Nixon discussed it with Mitchell and then dictated his own draft, the one that was published and from which he drew his televised outburst. The references to "hypocrisy," "vicious" and "malicious" maligning of Judges Carswell and Haynsworth, and some of the other similarly savage language were added by Nixon to the Buchanan draft. In the early evening, after filmed excerpts had appeared on television newscasts, Nixon took to the telephone and asked various assistants how they liked it. It was evident that he liked it very much indeed. His elation, his expressed delight with the whole performance, remind me of the euphoric state that he appeared to be in last summer after he let himself go with a militant speech on global policy at Colorado Springs and, soon afterward, with some unkind comments at a news conference upon the wisdom and abilities of former Defense Secretary Clark Clifford. Mr. Nixon's exuberance on April 9 carried over into the next day, the Friday of the Apollo splashdown. He still refused to have a TV set in his office, as he has since he had Lyndon Johnson's enormous array thrown out on Inaugural Day. But, in contrast to his restrained behavior during previous splashdowns, he watched this one in an adjoining office and clapped and did a little dance of joy when the Apollo three were safely down.

One of Mr. Nixon's purposes was to reaffirm his confidence in John Mitchell and to dispose of any notion that the President may or should have been impressed by the obvious flaws in the Attorney General's checks upon and judgments of Carswell and Haynsworth. There really should be no wonder at this. It is apparent from the public record, and from all that one hears on the subject at the Nixon White House, that the President simply refuses to believe that his closest associate and counsellor, Mr. Mitchell, erred in the slightest or that either Carswell or Haynsworth was proven to be unfit for the Supreme Court. If everything said and revealed about them before they were rejected had been known to Mr. Nixon when he nominated them, he would – I am convinced – have been as happy as he was without his later knowledge of them to submit their names to the Senate and, in so doing, to place his own powers of judgment on the line.

John Osborne

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Choosing Supreme Court Judges

by Henry Steele Commager

The Founding Fathers, who met in the summer of 1787 to draw up a Constitution for the United States, gave relatively little attention to the judiciary. Clearly they had only a hazy notion of the vital role the judiciary was to play in umpiring the federal system or in limiting the powers of government. Article III of the Constitution says nothing whatever about the qualifications of judges, or about the mechanics of choice. Indeed it says practically nothing about the mechanics of the judicial system itself. There shall be a Supreme Court – that is the whole of that – and "such inferior courts as the Congress may from time to time establish." The Constitution does not specify the number of judges who are to compose the Supreme Court, or their qualifications, if any, and it describes the duties and functions of the Court only in general terms. Not Article III, but Article II, dealing with the executive, provides for the appointment of justices: The President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court." That is the whole of it.

The discretion of the President here is limited only by his anticipation of such "advice and consent" as may be forthcoming from the Senate. The Constitution, which places some qualifications on other office-holders – the President, for example, must be thirty-five years of age and born in the United States, senators must be thirty years of age, and nine years a citizen of the United States, and so forth – is wholly silent about the qualifications of judges. As far as the Constitution is concerned a judge of the Supreme Court could be foreign born (he need not even be a citizen), twenty-five years old, and wholly without legal training or experience.

It is against this background that we should consider what might be called the Eisenhower-Nixon theory of judicial appointments. President Eisenhower, in his *Memoirs – Mandate for Change: The White House Years* – submitted four principles, or criteria, which should be observed in appointments to the Supreme Court. First, every nominee under consideration should be thoroughly investigated by the FBI and given "security" clearance. Second, no one should be appointed who holds "extreme legal or philosophical views." Third, each appointee should be vetted by the American Bar Association, and fourth – and most important – appointees should be drawn from the inferior federal and state courts.

President Nixon has now explicitly endorsed two of these criteria and implicitly sanctioned the other two. He has asserted that he will make his choices from the inferior federal and the state benches; he has gone on record as opposing any person with "extreme" liberal views – whether he is prepared to extend his disapproval of extremism to conservatives is not clear. He has relied – not very successfully – on "security" and other clearances and he has – again by implication – approved of and endorsed the role of the American Bar Association in the process of selection.

Now what shall we say of these criteria, so suddenly emerging on the American constitutional scene? The first and obvious thing to say is that they are unknown to the Constitution and, until Eisenhower, to history. They are therefore a radical departure from American constitutional law and practice and, too, a radical abdication of the Presidential prerogative – something Mr. Eisenhower may have been prepared to accept, but whose acceptance by President Nixon is quite out of character. To permit the FBI to substitute its judgment of the character and qualifications of a candidate for the judgment and discretion of the President is astonishing; to permit a private, or semi-public, organization like the American Bar Association a kind of veto power over the Presidential decision is an aberration. Mr. Nixon, who just the other day rebuked the Senate for exercising its constitutional right to advise and consent and who proclaimed (in his letter to Senator Saxbe) the principle that the Senate had a moral obligation to accept his appointees, is now prepared to concede to a minor government bureau with no experience or expertise in this arena, and to a private organization unknown to the Constitution or to law, a veto power on appointment to the highest bench. Are we now to anticipate an American Bankers

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Association veto on appointments to the Treasury Department, an American Legion veto on appointments to the Defense Department, or a Chamber of Commerce veto on appointments to the Commerce Department?

More serious are the philosophical and practical limitations which President Eisenhower was and President Nixon is now prepared to embrace. Consider first the philosophical. "No one" wrote Mr. Eisenhower, "of extreme philosophical views" should be appointed to the Bench. What are "extreme philosophical views" deponent saith not, but we may assume that Mr. Eisenhower, who was not given to fine distinctions, meant by this esoteric phrase extreme radicals or extreme conservatives – terms which do not necessarily have anything to do with philosophy. But this, alas, does not get us very far. For extremeness is, after all, in the eye and the mind of the beholder. At one time or another Presidents have thought most of the great Justices "extreme." John Adams had the highest regard for John Marshall, but Jefferson thought him dangerously extreme and, after *Marbury v. Madison*, was prepared to entertain proposals of impeachment. Madison thought Joseph Story a moderate, but Jefferson warned that he was "unquestionably a tory." Salmon Chase was an extreme abolitionist who had argued, in Court, that there was a Law higher than the Constitution, and who had helped break up a political party, but in the eyes of Abraham Lincoln – who made him Chief Justice – he was a moderate. Theodore Roosevelt, who wanted only ardent nationalists on the Court, concluded rather wildly (after Holmes's dissent in the Northern Securities case) that Holmes was a weakling; "I could carve out of a banana a justice with more backbone than that," he said. President Wilson did not think Louis Brandeis extreme, but a substantial segment of the American bench and bar did, and tried desperately to block his confirmation. Felix Frankfurter was thought by the public – and the Senate – to be an extreme philosophical radical, and so were other Franklin Roosevelt appointees like Hugo Black and Frank Murphy, who as governor of Michigan, had countenanced the first sit-down-strikes.

Perhaps the simplest thing to say about this notion of the danger of extreme philosophical views is that to nonphilosophical minds any philosophical views will seem extreme, and that in the circumstances the country is pretty lucky to get a judge with any philosophical views at all.

More important than any of these criteria is the fourth qualification, one which Mr. Nixon has not only endorsed but (unlike President Eisenhower) adopted: that all appointees should be selected from the inferior federal or the state courts.

The first thing to note here is that the Constitution makers clearly did not contemplate any such limitation. The original plan – one to which they returned again and again during the first two months of the debates, was to assign to the Senate (or to Congress) authority to appoint judges, and efforts to transfer this power to the executive were repeatedly defeated. Only towards the close of the Convention was the power of appointment transferred to the President *and* the Senate – a change made without any recorded discussion.

In the course of the summer-long debates almost the only specific suggestion about qualifications for judges came from the venerable Franklin, and was sportive rather than serious: "Mr. Franklin observed that the two modes of choosing the judges had been mentioned, to wit, by the legislature and by the executive. He wished such other modes to be suggested as might occur to other gentlemen; it being a point of great moment. He would mention one which he had understood was practiced in Scotland. He then in a brief and entertaining manner, related a Scotch mode in which the nomination proceeded from the lawyers, who always selected the ablest of the profession, in order to get rid of him, and share his practice among themselves."

Certainly the notion that Supreme Court judges should be selected from inferior federal tribunals was absent from the minds of members of the Convention, for they did not provide for such inferior tribunals, but left the creation of these entirely to the discretion of Congress. As for selection from the state courts, about all that can be said here is that when it came to appointing the original justices, Washington did in fact select a majority of his judges – ten in all – from the state courts.

Whatever may have been the thoughts of the Founding Fathers, experience does not justify in any way the kind of limitation Presidents Eisenhower and Nixon have proposed for nomination to the Court. A qualification of previous judicial experience, had it been written into the Constitution, would have denied us the services of a majority of our Chief Justices (and, we should add, the best of them); neither Marshall nor Taney, Chase nor Waite, Fuller nor Hughes, Stone nor Warren, had any judicial experience before ascending to the Chief Justiceship. This generalization is valid, too, for many of the most distinguished associate justices of the Court: thus Joseph Story, John McLean, Benjamin Curtis, John Campbell, Joseph

COMING: Peter Barnes argues the case against an all-volunteer army

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Bradley, the first John Harlan, Louis Brandeis, George Sutherland, and Hugo Black, while Lucius Q. C. Lamar, Charles E. Hughes, Felix Frankfurter, Harlan Stone and Wiley Rutledge – all without judicial experience – had taught at distinguished law schools. A qualification which would have denied us the services of these men does not commend itself to us at a time the need for judicial statesmanship is as acute as at any time in our past.

What should be the criteria for appointment to the Supreme Court?

Judges of the United States Supreme Court are required – the word is dictated even more by history than by the constitutional document – to fulfill responsibilities heavier and more far-ranging than are judges of any other country on the globe. Their task is neither strictly legal or political, in the accepted meaning of those terms; they are called upon not so much to expound the law, as to expound the Constitution; they are engaged, willy-nilly, not in politics but in statesmanship of the highest order. Upon them the Framers, and History, laid responsibility for adapting a document designed to embody 17th and 18th century ideas of the relations of men and government, to the exigencies of a rapidly growing industrial society; for umpiring the federal system; and for educating the whole American people – including Presidents and congressmen – to the meaning and the uses of the Constitution. It is as astonishing as it is gratifying that they have performed their tasks so well; indeed to the role of the Supreme Court we can apply the felicitous phrase of Winston Churchill: never before in the history of law has so much been owed by so many to so few.

Clearly the qualifications necessary to the performance of these exacting and importunate tasks are of a very special nature. It speaks well for the resourcefulness of the American mind and character that it has, in every generation, found men who could perform them with distinction, and with success.

What are some of the talents which appear to be requisite for service on the Supreme Court?

First, legal erudition is, of course, desirable, but there is little evidence that it is essential, and little correlation between legal erudition and judicial greatness. Justice Story was more erudite than John Marshall. Sutherland knew more law than Chief Justice Hughes. Frankfurter was more learned in the law than Chief Justice Warren, but Marshall, Hughes and Warren were all more effective on the Court than their more learned brethren.

Courage and independence are, of course essential, but should be taken for granted. After all judges enjoy the independence that is rooted in the principle of the separation of powers, and the security that is assured by tenure; ideally they enjoy immunity from the kind of vulgar assault which Rep. Gerald Ford has now launched against the distinguished Justice Douglas. What is more, judges have, by now, a long tradition of successful resistance to pressure or intimidation: it is almost an axiom of judicial history that no President can count on the judges he appoints.

The ideal judge needs other qualities besides learning and courage. Perhaps the most important, as the most elusive, quality is, quite simply, judiciousness – the ability to judge issues dispassionately and impersonally. This means that the judge is to represent neither party nor interest nor section, but the Constitution. President Washington, to be sure, began the practice of appointing judges to the Supreme Court from their own section. There were practical reasons for this: in the beginning (and until 1869) judges were required, quite literally, to "ride circuit," and it could scarcely be expected that a judge from New England could ride circuit in Virginia or the Carolinas, or – as the nation expanded, a judge from Georgia ride circuit in Indiana and Illinois. With the passing of this onerous requirement the rationale of geographical appointment disappeared. It can scarcely be argued that there is an eastern and a western and a Pacific Constitution, a southern and a northern Constitution. There is one national Constitution and there should be one national law. No judge should be appointed to the Supreme Court primarily because he comes from a particular section of the country. As Senator Borah said when the appointment of Benjamin Cardozo to the Supreme Court aroused opposition because New York already had two judges on that Court: "Cardozo belongs to Idaho as much as to New York." It is an observation President Nixon should take to heart.

Nor is there any compelling reason why racial background, party affiliations, or presumed economic philosophy should play a decisive part in the appointment or the confirmation of judges to the highest court. Indeed if there is any one place in the broad arena of American politics where these considerations should be excluded, it is the Court. We do not want judges who confess a regional view, a partisan view, a racial view, or an economic view; we want judges who express a commonwealth view. This may be a counsel of perfection, but if we are allowed to strive for perfection anywhere, it is in the judiciary.

It is improbable that any judge can ever emancipate himself completely from what Justice Holmes called his can't-help-but-believes. Holmes himself, who argued that the Court should be "eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death," allowed his ardent nationalist sentiments to influence some of his most powerful opinions, and his natural elegance and fastidiousness to color some of his most famous. Yet the recognition that judges are human should not for a moment abate their zeal, or ours,

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for an ideal of reason and justice that is above and beyond the beguilements of private interest.

Judicial temperament is essential, but it is not enough. Equally important are broad and generous social sympathies, sensitive to and responding to the felt needs of society. "The man of the future," said Justice Holmes, "is the man of statistics and the master of economics." But there is more to it than this. What is called for, in the great judge, is an affluent mind – a mind familiar with and responsive to art and literature and philosophy. "Life is painting a picture, not doing a sum," said Justice Holmes, who has some claim to be the most distinguished figure ever to sit on the Supreme Court. Justice Story wrote poetry (rather bad poetry, alas), read all the current novels, and dazzled his classes at the Harvard law school with his vivacity and wit; Justice Brandeis's mastery of law, economics and sociology was illuminated by a passion for social justice, and reverence for the great traditions of religion and literature; Justice Cardozo, who observed that a judge must be "historian and prophet" and whose "beautiful intellect and character" (the phrase is Holmes's) impressed itself upon all of his associates, wrote with felicity on *Law and Literature*.

The greatest of our judges have been deeply versed in the history, rather than in the technicalities, of the law, and have recognized that mastery of the history emancipates from slavery to the technicalities. Thus the learned James Wilson pointed out, in the first important case to come before the Supreme Court, that America had broken with history and was thus able to shift sovereignty from state to people. Thus John Marshall, who said that "a constitution is framed for ages to come and is designed to approach immortality as nearly as any human institution can approach it," formulated his philosophy of national law and national unity on the basis of familiarity with failures of all confederations and alliances of the past. Thus Holmes, whose every opinion was quickened by a profound knowledge of the common law, said that "it is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV" and argued that "the first call of a theory of law is that it should fit the facts," wrote that for those who love the law, "no less a history will suffice than that of the moral life of his race . . . Nor will his task be done until, by the farthest stretch of human imagination he has seen as with his eyes the birth and growth of society and by the farthest stretch of reason he has understood the philosophy of its being."

This brings us to a fourth qualification for the highest Court: resourcefulness and imagination – the resourcefulness to find in the elusive phrases of the Constitution authority for making it an instrument rather than a limitation, and the imagination to foresee the direction which the law and the Constitution must take if the Constitution, and the nation, are to "endure for ages to come." Marshall displayed this kind of imagination when he seized on a dispute over control of steamboats on the Hudson to lay down the great principles of federal jurisdiction over interstate commerce which still obtain. Justice Story revealed it when he created an admiralty law for the United States and when, in the great case of *Swift v. Tyson*, he emancipated much of the economy from the restrictions of state law by creating a national commercial law. Justice Harlan had it when, 80 years ago, he foresaw the danger of the "separate but equal" doctrine and called for a Constitution which was "color-blind." Justice Holmes had it when he provided a philosophical basis for the principle of judicial continence; Justice Brandeis had it when he harmonized the principles of sociological jurisprudence with the Constitution; Justice Stone had it when he used a footnote in an unimportant case (Carolene Products) to solve the dilemma of judicial self-restraint in economic issues and judicial activism where the preservation of the integrity of the democratic process was at stake. In our own day Justice Warren has revealed resourcefulness and creative imagination in channeling revolutionary social and political changes into the conduits of the Constitution.

Finally, as the Supreme Court is the greatest and most effective of our educational institutions, the judge should be a great teacher. The Constitution has not imposed this function of education upon the Court, but history has. For 170 years judges have been engaged in what is surely the most remarkable educational enterprise in the history of politics – that of explaining to a vast and heterogeneous population the nature of the Constitution and of law, of federalism and nationalism, of executive power and legislative power and the limits on power, of due process and justice, and of a hundred other profound and fundamental concepts. The whole country, and not our country alone, has come to look to the Court for the performance of this function, until we can say that upon the wise performance of this duty rests in considerable part our chances for survival as a nation. It is too late now to reopen the question whether all this is a proper judicial function, as it is too late now to reconsider the propriety of judicial review: history has placed a statute of limitations on these questions.

One essential qualification of a judge then is that he be a great teacher of the law, of politics, of constitutionalism and of philosophy. No mere skill in the law, no accident of representing a section, a party, an interest, no qualities of charm, of goodwill, or even of virtue, can be a substitute for this quality of ability to educate a great democratic people to the nature of law. What is needed here is profound wisdom, an affluent mind, and a magnanimous character.

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TV's Long Lasting, Super Strength Half-Truths

The One-Eyed Slicker

by Daniel Henninger

For a decade Geritol's TV medicine man, Ted Mack, has been telling drowsy viewers that Geritol would bring them back to life. And the Federal Trade Commission has been telling Geritol, in formal complaints and cease and desist orders, that its claims were deceptive and to discontinue the misleading commercials. Geritol persisted. Last week the Justice Department filed a $1 million suit against Geritol ($500 thousand against manufacturer J. B. Williams and $500 thousand against the Parkson Advertising Agency) for failing to comply with the Commission's directives.

Geritol's pitch for its life-giving tonic is a direct descendant of the frontier medicine show of a century ago. After a sword swallower, fire eater, banjo player or singing girl had gathered the curious, a "slicker" sold Jo-He Magnetic oil (a 75-cent, three-ounce bottle cured colds, piles, ague, rheumatism, scald head, cancer and croup) or Indian Sagwa or Wizard Oil. When he had most of the town on Wizard oil, he moved on. Other slickers dealt in fruit trees, sold with pretty-pictured catalogs but which arrived from back East half dead; or lightning rods – installation for $53 and an "inspector" to come by shortly with a $20 rebate.

A century later the salesman, now a corporation, partnered with television to make available: extra dry deodorants, enzyme detergents (12 brands), hair sprays, nose sprays, laxatives, sleeping pills, smoking cures, anything. A 60-tablet bottle of Bufferin costs 88 cents, but enough of it is sold to make worthwhile the $9.25 million *Advertising Age* says Bristol-Myers spent on 882 Bufferin commercials in 1968. Television promotion does not come cheaply – 60 seconds on network TV cost $40-60 thousand. Television commands that price because it guarantees a nightly audience of 125 million people. In a minute or less the advertiser tries to convince these millions that his product is *different* from the rest, faster working, longer lasting, better looking, etc. The medicine show lives.

Last year Dristan told allergy sufferers, "Do anything you darn well please without worryin' about hayfever miseries," and, "Now I can even chew on ragweed!" With considerably less verve Allerest said ". . . you can enjoy life the way regular people do if you take Allerest." The Federal Trade Commission filed complaints against Allerest and Dristan on the grounds that neither completely prevents or relieves allergy symptoms as their commercials implied. (The FTC holds that a commercial's deception turns not on its literalness but on the impression it gives viewers.) Both signed consent agreements and discontinued the ads. A commercial for Contac nasal spray squirted Contac and a competitor onto rice paper. Contac's bigger puddle proved it put "more decongestant where the sinus congestion is." The implication, the FTC said, was that Contac could better penetrate mucous membrane to relieve congestion, which it cannot do. Menley-James replied they were simply showing that Contac produces 40 percent more spray through the bottle's bigger hole. Vicks promoted Sinex nasal spray last year with a demonstration in which two men with congested noses lean over a breathing apparatus made of two vertical tubes in the middle of which is some cotton. One man squeezes Sinex into the bottom of his tube, looks up and says, "I can feel it." The other man, using the competition, says nothing got through the cotton in his tube. The voiceover comments that the vapors in Sinex are powerful enough to penetrate congestion. The Commission challenged the impression that Sinex passed through cotton and nasal mucous to effect instant free breathing. In its consent agreement Vicks denied any intention to demonstrate that Sinex penetrated the cotton.

When STP oil treatment made its television debut, its commercials featured Andy Granatelli, the racing buff, who told how well STP worked in his racers. The FTC compelled Granatelli to make clear in future ads that he is president of STP, Inc. Several years ago Colgate-Palmolive demonstrated Rapid Shave's beard-softening ability by spreading it on sandpaper, then shaving the sandpaper clean. An FTC investigation disclosed that that would have required soaking the sandpaper for over an hour, and in fact, the on-camera demonstration was performed with sand spread over glass. A recent Commission action against Colgate-Palmolive indicates how a technically honest commercial can mislead. A sandwich was wrapped in C-P's Baggie; another was wrapped in a competitor's plastic bag. They were submerged in water, bag X filled with water but Baggie did not: proof that Baggies keep food fresher. The FTC said the demonstration was valid but the conclusion was not – with normal use the competitor's bag keeps anything as fresh as does the am-

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phibious Baggie. In another commercial, the remarkable clarity of Libbey-Owens-Ford auto glass was traced to the fact that the car's windows were rolled down. LOF said it was raining the day of filming.

One person who cares that TV commercials bilk consumers of millions annually is law professor John Banzhaf III. Banzhaf organized four George Washington University law students into a group called TUBE (Termination of Unfair Broadcasting Excesses). Watching TV the students compiled a small but representative list of televised deception. (TUBE's list would be longer had they been able to read the ad copy on file at the FTC, but the Commission says the copy for the televised commercials is confidential.)

TUBE found that children are easy marks for phonied-up commercials. During the Saturday morning cartoon and toy orgy a boy might see this ad for Johnny Lightning racing cars – Announcer: "Here come the 1970 Johnny Lightning *Challengers!* New triple threat three engine dragster . . . the *speed* hungry spoiler . . . the *bug* bomb . . . the *powerful* smuggler . . . the *sand* stormer . . . the *explosive* TNT . . . they are beautiful and they are *fast!*" A small group of boys are staring at toy cars racing around a track. Backgrounds blur, the camera zooms in, cars fill the screen, leap into the air and are caught in slow motion and stop action. Little girls as well have been known to tire quickly of expensive dolls that don't dance and run like the ones on television. Like the running Barbie doll that suddenly becomes human – "Wow! She's real like me!" cries a thrilled little girl. Deception in these ads might be arguable because kids don't pay for toys and Dad knows he's been shilled when he buys them.

TUBE alleges many commercials for enzyme detergents are misleading (named were Ajax, Drive, Fab, Axion, Oxydol and Gain). A typical enzyme ad for Procter and Gamble's Gain says "We're at the San Pedro Wharf where the fish bloodstains put on this apron are a day old. Look! Set in, locked in bloodstains." Seconds later P & G's man produces a spotless apron. "Look! Set in, locked in bloodstains virtually Gone, Gone, Gone! . . . Everything is unbe*liev*ably clean with the unbe*liev*able detergent – Gain! What TUBE found hard to believe was the impression that one need only pop his clothes and some enzymes into a washer to work the miracle. In fact, says TUBE (and Consumers' Union), enzyme detergents require presoaking, often overnight, and are only effective on protein-base stains. Last winter Listerine mouthwash was touted as a weapon in the "cold" war: "This cold season, fight back with Listerine antiseptic." Whatever Listerine does, it doesn't prevent colds. Banzhaf believes that advertisers should have to indicate the damage their products may cause and cites as example some whitening toothpastes that contain abrasives harmful to tooth enamel. Arthur Godfrey moved in this direction when he told Colgate-Palmolive that he would no longer do commercials for Axion, a presoaker, unless allowed to say that phosphates in Axion were a water pollutant. C-P consented. Now Godfrey appears (less frequently) by a river in the Everglades and says that pollution is a serious problem, that Axion, like all detergents, pollutes water but until government and industry come up with a solution, stick with Axion.

One thing hyperbolic ad minds may do freely is "puff." Puffing is saying one's product is the best tasting, quietest, cleanest, smoothest, whitest, brightest and so on. The puffing principle evolved in the early days of television when it was thought that viewers would see, smell, listen, taste and feel for themselves. Over the years, though, some advertisers have puffed their products beyond this simple test: one detergent gets clothes "whiter than white"; another goes "all the way beyond white!" "The reason the laws allows this," says John Banzhaf "is that it can't think of any way around it. The courts can't get involved in tasting and things like that." A new ad genre is the spontaneous, man-on-the-street testimonial, a child of TV news interviews. In a Shell gasoline commercial, an actor posing as a gas station attendant berates a customer for using Shell, but the customer defends Shell gasoline like a Kuwaitian sheik. For this commercial, and others of its type, it may be necessary to film hundreds of people to capture the right offhand response.

All this soft-core fraud gets on television because no one can or wants to stop it. The three major networks have Standards and Practices departments which are supposed to screen out deceptive ads before they appear. The only requirement for the job is that one be able to see. Warren Braren, former head of the New York office of the National Association of Broadcasters' Advertising Code, says "the network editors have no legal or scientific training and they don't have any scientific authorities to turn to for opinions. For example you may have a case in which an editor's mother uses a particular laxative; it's fine for her, and on that basis he'll approve the claim. Or an editor may get substantiating reports on comparative claims for auto tires. The editor doesn't have the expertise to determine the validity of these tests, so he may discuss it with someone else in the department. The networks take these tests on face value and hope that nobody asks any questions." Another individual in the ad-regulation business says the editors are overworked and that pulling a deceptive ad isn't worth the grief: "NBC looks over maybe 2000 ads a month handled by six or seven editors at a national level, not spot and local stuff. If it's in preproduction or script form and not blatant, they may let it go for lack of time. Or an ad may get by because it comes in as a final film already locked into a schedule. If the editor blows the whistle on a multimillion dollar project, the agency's lawyers

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rush in saying if you don't take our schedule we'll switch to another network. It may go up to the vice president in charge of sales, pressure is put on and they accept the schedule. It's the facts of life."

Occasionally the networks pass on questionable ads to the Advertising Code at the NAB, the industry's self-regulatory agency. The Code has a Medical and Science Advisory Panel which serves on a limited, non-fee basis. When its opinion is sought, say Braren, "the outcome is often beneficial to the cause of truth in advertising." Last year the Code staff asked for some money to put several specialists on retainer. The NAB denied the money. Also denied was a request for a few thousand dollars to research problem areas like drugs, detergents and toothpastes. "Self-regulation," says Braren, "is thought of as a means of keeping the government off the broadcaster's back."

The government, the FTC, really doesn't cause the broadcasters much backache. About 75 percent of the complaints the FTC files against TV advertisers are settled by consent agreements in which the company answers a cease and desist order by promising not to continue the specific, offending commercial. There is no fine or sanction so consent agreements don't carry much punch. Despite Geritol's frequent contributions to the FTC consent file, it appears regularly on Huntley-Brinkley and Walter Cronkite. And consent agreements have no effect on similar claims by other manufacturers. Ignoring Geritol's run-ins with the FTC, Sterling Drug (Bayer aspirin) last year introduced Super Ionized Yeast for iron anemia deficiency ("Chances are you may have the Gray Sickness"). Sterling's consent agreement reads like a photocopy of the Geritol file. Most other FTC complaints are settled through lengthy litigation during which the commercial still may appear.

The Commission now is in a court fight with Bristol-Myers and the outcome may numb the entire analgesics industry which annually spends $125 million advertising aspirin and has yearly sales to retailers of over $400 million. About ten years ago, the FTC issued a complaint against Bristol-Myers' Bufferin and Excedrin. During the heyday of the hard-sell commercial, Bufferin's housewife burned clothes while ironing, her baby spilled milk and another child fell off his tricycle. "Tension! Tension! Tension!" echoed a voice with each disaster. The housewife took two Bufferin, which works "twice as fast as aspirin," and relieves "tension headache." An Excedrin ad in this vein claimed that Excedrin was 50 percent stronger than aspirin, reduced swelling tissue, relieved tension and was an antidepressant. (Since then Excedrin has somehow gotten stronger and slightly confusing. David Janssen, who as a doctor in the "Fugitive" was for three years the most believable man in America, says "Two Excedrin contains twice as much pain reliever as *four* of the best selling aspirin.") The FTC said their studies showed none of these claims to be true, and for similar reasons filed complaints against Anacin, Bayer and St. Joseph's aspirin. Shortly, the Commission dismissed the complaints, which would have produced endless litigation, in favor of rules to regulate the entire industry. The proposed rules would forbid the aspirin people from making any of the above claims unless they proved they had used nonprescriptive analgesics within legal limits to produce a more effective pain reliever (a difficult trick because the federal Food and Drug Administration has determined the types and amount of analgesic they may use). The rules also proscribe any efficacy or safety claim "which contradicts, or in any manner exceeds, the warnings, statements or directions" on the product's label, which specific were it applied to all TV commercials would do away with many of them.

The analgesics industry in the person of Bristol-Myers is challenging in court the Commission's authority to make such rules. The rules themselves will be contested at Commission hearings for which the manufacturers will produce house physicians to support their claims. Should the rules become final, the admen will work with the not very compelling fact that "aspirin is aspirin."

Troubling as these rules may be for the future of aspirin, they get at only part of the deception problem. For one thing it is never announced that last night's commercial demonstration was a hoax and will no longer be seen because the manufacturer signed a consent agreement. Few can forget the Colgate toothpaste commercials in which "Gardol's protective shield" saved the announcer from baseballs, golf balls and coconuts. Fewer still may recall the FTC proceeding that concluded that Colgate with Gardol didn't completely prevent cavities by creating a "protective shield" or anything else. And unlike the dissatisfied farmer of a century ago, you can't beat your money out of them. Senator Philip Hart has introduced a bill to give consumers more effective recourse than indignation. Hart's amendment to the FTC act would enable anyone to use a final cease and desist order as prima facie evidence of deception and would permit class actions, making it possible to sue a company over a product that sells for about a dollar, but that has sales of several hundred thousand dollars. Speaking before the American Advertising Federation earlier this year, President Nixon's national affairs counsellor Bryce Harlow characterized bills like Hart's as the work of "far-out consumer advocates." He urged the admen to support the President's Consumer Protection Act which permits fewer class actions. TUBE would dispense with the FTC altogether and has petitioned the FCC to suspend the license of any station airing deceptive commercials. For now reform of the advertisers, broadcasters and regulators isn't much more than a thought.

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Stanley Kauffmann on films

Woodstock
(Warner Bros.)

Mississippi Mermaid
(United Artists)

Woodstock, the film of last summer's world-stunning festival, runs three hours and makes us undergo those three days in miniature instead of in imagination. But it is almost worth the time it takes, and that is rare enough among very long films.

Chiefly, it proves again that memory is a gradually numbing faculty in our time. Nowadays no one remembers much about an important event a month after it happens. The nozzle of Now plays such a fierce stream on us that everything tends to get washed away, unless it was imbedded before the flow became so fierce. While that Woodstock weekend was happening, it seemed incredible; now it seems even more incredible that it ever did happen, and this film functions as a proof of the fact. Half a million young people – or "maddened youths," as a *New York Times* editorial called them – spent a happy communal weekend on a hillside, despite rainstorms and physical inconvenience, with an incidence of mishap that was negligible by any actuarial scale. The half-million just had a friendly good time, listening to music, smoking various things, and balling.

But this mammoth weekend was only a weekend, and a three-day utopia, delimited beforehand, is somewhat easier to achieve than a permanent utopian state. It proved very little about possibilities for future life, and that may be one reason it had small continuing effect. Another reason may be that the event was without any real political character. Everyone was anti-war, but that's like being pro-sex, it's much more biological than political. The mirror-image of the very gentleness that made the weekend a "success" is political apathy. The only political song in this film is "Joe Hill," the old labor ballad, sung by Joan Baez, and it is the only song that gets a tepid reception. This is not a "culture of opposition," as it has been called; as shown here, it is what young Germans call a culture of "*ohne mich*." Non-participating.

Woodstock is also notable because it tries to do more than photograph a concert, it wants to be a film. Others, like Murray Lerner with his *Festival* about Newport, have had the same aim; here there was more money available, many cameras, good color, and fine sound. There is some flashy editing – split-screens and cross-fades, like a super TV spectacle – but at least Michael Wadleigh, the director, has felt some responsibility to the form of what he was doing. Special credit to the sound editor, Larry Johnson, and his staff. The track is crisp and has excellent "perspectives." And the whole performance is put in a context of the audience's continuing presence over the weekend, as well of community reaction in the neighborhood.

Most of the singers and their numbers are well-known – Richie Havens, The Who, Joe Cocker, and others – so I won't comment. I note only two special amusements: the use of the "bouncing-ball" device, from the old sing-along shorts, during a number by Country Joe and the Fish, and the closing rendition of "The Star-Spangled Banner" on Jimi Hendrix' guitar, in a manner that would possibly not delight Mrs. John N. Mitchell.

Any film by François Truffaut commands a certain amount of ecstasy in advance from those committed to the *auteur* theory of film criticism (to which I'll return later). One feels that their response to all future Truffaut films is already pretty well formulated and awaits only details of plot.

For those uncommitted to that theory, Truffaut's *Mississippi Mermaid* may seem – as it did to me – a commonplace, overextended thriller. As is often the case with Truffaut and others of the old New Wave, it is based on a hack American novel – this one by Cornell Woolrich. Jean-Paul Belmondo is a rich young factory-owner on the island of Réunion, near Madagascar, who sends for a mail-order bride. She is Catherine Deneuve, who arrives on the ship *Mississippi*, hence the title. Within about thirty seconds, all of us except Belmondo know that Miss Deneuve is an impostor, not the girl with whom he had corresponded. About forty minutes of screen time later, Belmondo, too, discovers the deceit, and the rest of the film is taken up with his pursuit of the decamped deceiver, who has robbed him, his acceptance of her (when he finds her) because he cannot help loving her, his commission of a murder, and the sad, long-delayed end.

In all of this decently photographed and passably acted film, there is no plot surprise, except for the very clumsy discovery of Belmondo's buried victim. Nor is there much of the visual felicity that was once Truffaut's distinction. Belmondo walks through his performance like a latter-day Jean Gabin, although, like Gabin, his mere presence has some power. Catherine Deneuve, blank-faced and skinny, is again supposed to suggest, by the negatives of her blankness and skinniness, all sorts of fire and kinky sex. Michel Bouquet, tiny-eyed and purse-mouthed, is adequate as a private detective.

As with so many films by directors of this school, there are lots of "in" film references – called, in the lingo, "homage." The picture is dedicated to Jean Renoir, but that at least is overt. Some cryptic references: the detective is named Comolli (Jean-Louis Comolli is a well-known French film critic); the house in "Switzerland" to which the couple flee at the end seems to be the same house used at the end of Truffaut's earlier (and immensely superior) film, *Shoot the Piano Player*; there are matte shots à la silent films (where all of the screen is masked except for one small area) and "wipes" between scenes. The last devices are meant to be seen in invisible "quotation marks," as when a literate person deliberately uses clichés or archaicisms.

For those uninterested in "in" cuteness, these deliberate clichés are tedious, and the unwitting clichés make them worse. For instance, the sequence in which Belmondo is sick in a Nice hospital might have been shot by such a Hollywood drayhorse as Jack Smight.

Truffaut was a leading formulator of the *auteur* theory; in fact, as explicit theory, it is usually said to date from an article he wrote in *Cahiers du Cinéma* in January 1954. One tenet

(Continued on page 32)

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Reed Whittemore on living in glass houses

The Book-of-the-Month Club runs, in addition to its own business, a sort of art club for which advertisements have been appearing for some time. In these advertisements two pictures are displayed side-by-side; under one is the question, "Good art?" and under the other, "Bad art?" The pictures change from ad to ad, but the copy remains essentially the same. In the one before me the first two paragraphs describe how the "good art?" painting was "held in the highest critical esteem in the 1880's," but not today; while the other "was damned as degenerate in the early part of the century," but is now "considered to be one of the finest examples of expressionist art." The third paragraph of the copy takes this information and draws from it the conclusion that "a surprising number of otherwise cultivated persons have a blind spot so far as painting is concerned."

The ad doesn't worry me much because I am not "in" art, and don't mind having a blind spot about it. Furthermore, I have gained, rightly or wrongly, the impression that art criticism is loaded, even at the highest levels, with the tendency expressed in ad to equate fashion with merit. hat current ads for the Book-of- nth Club itself merely have a n for a well-rounded library. This does not make the book business any less opportunistic than the art business. If the art business were run by the book people the art ad would recommend that the customer buy *both* the pictures in the ad.

As an aside, if the art club principle were applied to recent Book-of-the-Month Club dividend books, the ad would show on the left *The Collected Poems of Robert Frost* (with the phrase "good poetry?" under it), and on the right two recent books by Rod McKuen ("bad poetry?"), for these are the only two poets recognized as dividend types at the moment.

I mention the Book-of-the-Month Club people, and their colleagues in art, largely to establish a base to move *away* from. Whatever the merits of the Book-of-the-Month – and I've never been sure there are any – they are not merits decently connected with art or literary criticism, or even with the lowly art of book reviewing. The Book-of-the-Month is a business, while book reviewing is . . . but at this point my pen begins to falter. Years of book reviewing with little magazines, and now a year at *The New Republic* have not clearly distinguished for me the mercantile operation that is the Book-of-the-Month from this other operation that I am involved in.

So let me move away from the Book-of-the-Month Club slowly – to *Publishers' Weekly*, for example. My memory of what PW *used* to be like, say two decades ago, may be faulty, but what I recall is a sheet much more conservative in its judgments than the mod thing now before us. It used to be committed, like Warner Bros., to the big and heroic or the tender and searching; its ideal books were cornball fictions and pious establishmentarian nonfictions. Now on the other hand, youth and rebellion having taken over, a fiction without sex is pitied and in effect damned for its unsalability, while a non-revolutionary nonfiction is found stuffy. Also the prose of the little reviews in PW has been souped-up, as these instances may demonstrate:

> [This book] "has a lot going for it, particularly among readers on the college campuses who are going to recognize Mr. Grendhal's ability to tell it like it is."

> "These are poems for those who yearn for the assurances of golden times when grass was not for smoking: Ben Jonson, Blake, Byron, Burns, Shelley, Keats, Tennyson . . ."

Perhaps this shift in PW is no different after all from the fashion shift described in the art club ad. The dollar, and therefore booksellers and PW, follow fashion, and anything anti-establishment is now fashion. How should it be otherwise? PW serves the book industry, and serves it well. To imagine a detachment from fashion by it, or by such other offshoots of the industry as the Virginia Kirkus book reviewing agency, is to imagine that General Motors would not try to sell its own cars.

But when we move out of the industry proper, and into the world of newspapers and magazines where freedom, justice, and detachment of judgment prevail, we find a troubled book-reviewing world righteously indignant at the notion that it is run by fashion

Our Whole Life

Our whole life a translation
the permissible fibs

and now a knot of lies
eating at itself to get undone

Words bitten thru words

meanings burnt-off like paint
under the blowtorch

All those dead letters
rendered into the oppressor's language

Trying to tell the doctor where it hurts

like the Algerian
who has walked from his village, burning

his whole body a cloud of pain
and there are no words for this

except himself

Adrienne Rich

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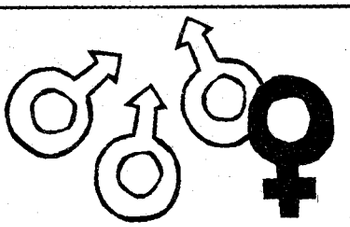

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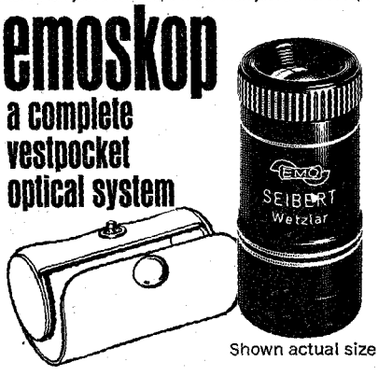

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and the dollar, yet unable to specify what it *is* run by. For with the dailies and the weeklies, the art of reviewing seems inescapably attached to the business of reviewing the books that the chief publishers have decided to place their best capital on. Only down in the lowly quarterlies does it seem possible to escape the obligation to keep up. The obligation to keep up can be fought, of course. I do it by making New Year's resolutions daily to the effect that the good is at least as important as the latest. In practical terms the search for the good may well take the form of a search for what is *not* the latest.

In the thirties Malcolm Cowley, editing this section, wrote off to a number of prominent literary critics, most of whom were friends of his, for help in finding out what books, published within a year or two of his letter, they could list and describe that had not received appropriate attention. In due time he printed the results. Recently I considered doing the same again, for it did seem a worthy enterprise, one that should be repeated occasionally. The obligation to ferret out the best is central to the reviewing profession, I said to myself loyally, and for this purpose one would think that the more good minds being put to the task the better off the profession would be. But I now have limited enthusiasm (though I note that the *American Scholar* has just done it). I have grown cynical about the theory that two heads (or ten) are better than one, even though I keep being provided with proof positive that my own one head – or any literary editor's one head – isn't enough. The obligation to ferret out the best being written – and see that it gets impartially, intelligently, briefly, thoroughly and beautifully reviewed – is a joke when surrounded by thousands and thousands of titles.

How does one push such incredible publishing quantities through a sound, all-purpose, aesthetic, intellectual, socially responsible and maybe even honest filter? And what does the filter look like? I haven't the least idea, but I do know that the private brain is not big enough to serve, and the committee brain is too stupid. And because both the brain and the committee fail, the whole process is taken away from brains and committees entirely and placed in the hands of all sorts of wonderful social and economic forces. The American Way.

This magazine publishes something like 200 reviews a year; the *New York Times* Sunday section publishes perhaps ten times that many. From 200 to 2000 is a big jump, and the enormity of the *Times* enterprise impresses me weekly. Yet even the *Times* can't keep up with the quantities of books involved; and it, like *Publishers' Weekly*, has now become so big that the "best," if there were to be any, might well be planted in the middle of it and nobody would know.

Down where the marvelously discriminatory *selecting* should take place – that is, down around where *The New Republic* is, and then the monthlies and quarterlies – we seem to be doing only what the *Times* does; no more, and certainly a good bit less. We feature reviews of books the *Times* features; we compete, unequally, with the *Times* for reviewers; and of course our business department yearns plaintively after some of the business that the *Times* has sewed up (though, to its credit, the business dept. never imposes selections). What it amounts to is that we, though a small reviewing venture, seem to have an obligation to review books, aside from the "best," that have achieved a sufficient noise level at the time of publication so that their neglect would hurt *us*.

A noise level is partly a cumulative thing – a new book by Graham Greene produces more decibels even before it is opened than somebody else's first novel after it has been read thrice – but decibels scream young McKuen as fast as they scream old Greene. A noise level may not be an aesthetically justifiable element in the selecting process yet if we don't pay any attention [illegible] or if we deliberately go ag[illegible] shutting our ears to the noise [illegible] ing for "quiet" books of me[illegible] become in turn a very quie[illegible] section indeed, so quiet t[illegible] will read us. Why? The [illegible] goes far beyond the dollar, involving our whole collective social conditioning. Meanwhile there are so many books with a fairly high noise level each year that in trying to cope with them we use up about three quarters of our reviewing space.

The really sad part of this mess is that there are very few good books being published (at least that's what my own clogged filter says). I don't understand quite how quantity *can* drive out quality but it does. Sitting in

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the office and watching the bookshelves fill up, I keep being reminded of an arrogant remark by Ezra Pound in his "Sextus Propertius" poem, where he said that, surrounded by the whole blooming Roman (or American) empire, he was looking around desperately for something to read in "normal circumstances," that is, "for a few pages brought down from the forked hill unsullied." He suggested that he, in the role of Sextus, might have to write the pages himself. I am reminded of his poem not because I think I can write the pages myself, but because I'm not sure that I find the pages *being* written. Sour grapes? Maybe. Anyway, aside from the problem of the number of good books available, if a literary editor, together with his enormously tasteful collaborators, were to review only the books that he and his collaborators thought were good, the reviewing business would slack off instantly, and immediately he would find his judgment seriously questioned. That is, the more seriously he were to put forth his aesthetic, the more trouble he would run into. Call it Whittemore's Law: judgment in literature is impugned to the extent that it is exercised.

Impugned, I say; not disagreed with (impugn – to oppose or *challenge* as faulty). At all levels now, and in all the possible situations involving judgment that I can think of, impugning is the likely game, not disagreeing. Aesthetic judgments are small potatoes in the general ruckus, but they do reflect the whole. The whole is anarchism both glorious and sad, with precedents going back to the Middle Ages, and including the best and worst of American political and literary figures right up to the current instant. The glory of anarchism I do not question – and I assume that any writer has to be part anarchist to keep at his profession – but the sadness of anarchism is with us too. The sad anarchism, for my money, is money anarchism or power anarchism.

Back in 1886 a fine Haymarket Riot anarchist had this to say about law: "Every law and every government in the last analysis is force, and that force is despotism." Glorious – but when the anarchist in retaliation goes after money and power himself, then begins the sadness.

Money in the world of art and literature is the true sadness, and money anarchism is definitely what we have now. There is nothing wrong with a dollar except when one has no other standard *than* a dollar. I can have sport impugning the Book-of-the-Month Club people, since their judgment is so obviously governed by the dollar; but what have I got to propose as an alternative? The other wisdoms that we propound competitively can seldom be agreed upon by more than three or four people at once, but everybody can always agree on a dollar.

Another word for an anarchist is a romantic. Romantics have always impugned literary critics and literary criticism anyway, and we are in a desperately romantic literary age. Only in the unromantic world where the critic tries to provide a rationale for his judgment can we hope to provide more than private impressionism as a base. Unless we use the dollar. And when the dollar and the romantic combine, as they have so strenuously in the last decade, the impugnment of judgment proceeds at an enormous rate in literary or judicial courts.

I don't know whether a reviewer or a pristine judge of a book contest is the most vulnerable to attack. Is it safer to give, or not to give, *reasons* for judgment? Recently the judges for the fiction prize of the National Book Award were impugned for having failed to include Philip Roth's novel about masturbation in their list of finalists. Would they have been better off if they had written a long critique of the Roth

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novel and why they didn't like it? I doubt it. Where they went wrong was in exercising their judgment as they were hired to do.

Until recently – that is, until I took *this* job – I always enjoyed a little impugning myself. The Pulitzer Prize always seemed a bit of a joke, because it was apparently run by persons who had not let the judges exert their own private judgment. The NBA and Bolligen awards were better, but until I served on the committees of those two I thought that they too were establishment-ridden; that is, they seemed to me benevolently but none the less effectively controlled by forces beyond the private judging mind. And as for the *Times* and its reviewers, they were all a part of a vast New York trust out to discriminate against meritorious outside authors like, particularly, me (I once wrote the *Times* an ugly letter to this effect – 'tis common). But playing editor or reviewer (the two involve different kinds of judgment and different hazards, but I will not discriminate between them here) eventually gets to the anarchist's soul and brings him to church. I as editor received a rejection slip *from* a poet recently and managed to stay amused; but I can lose my cool several times a day at authors and agents who object vindictively to the treatment their works have (or have not) received. I then feel like going off and having a good cry with Judge Hoffman: the ultimate establishmentarian self-indulgence.

But suppose one were not merely to cry about these sadnesses, but actually to despair of performing effectively the responsibility of ferreting out the best, or at least despair of making any particularly important contribution to that activity. Then what does reviewing come to?

Then it comes to what everybody thinks it is anyway. It comes down to selling books.

But if you ignore that motive, what then?

One can *use* books for a thousand purposes. One can deplore, especially; and, for deploring, a really bad book is a goldmine. Or one can teach – with the bad or the good. Or investigate. In fact everything one can do with a worm or a man one can do with a book – and finding the good worm or man is only a small part of the enterprise.

Yet that small part – of finding the good – remains the essential part in the myth that most of us carry around of what criticism is for. If there is nothing to sustain the myth we had best abandon it; but until we abandon it we are stuck with it, and it keeps telling every literary entrepreneur like me that he must abjure unholy alliances with fashions and relevances, friends and publishers, and authors and reviewers, and live like a bloody saint.

But as I always say, "Mistah Kurtz, he dead."

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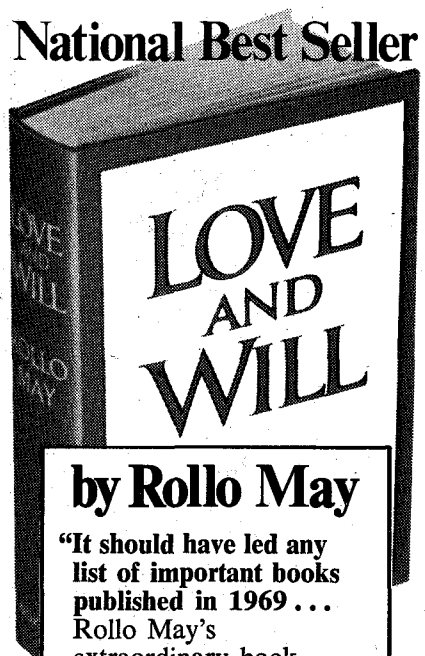

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Correspondence

The Nonsense Explosion

Sirs:

A reading of Ben Wattenberg's "The Nonsense Explosion" (April 4 & 11) has led me to conclude that the problems of population growth are much too serious to be left to demographers, and that we cannot seriously expect them to design social policy to deal with population problems. At least if this piece is representative of the kinds of policy prescriptions made by demographers. As an economist I (of course) think that welfare economics will prove more appropriate to the task of defining "optimal" rates of population growth and to devising social policy to achieve these goals.

First, let me indicate agreement with Mr. Wattenberg that the population problem is not and should not be thought a question of land/population ratios – on that score we definitely have no population problem in the United States, and therefore there is no overpopulation crisis of this nature.

However, the question of the relationship between the quality of the environment (pollution broadly defined: air, water, noise, visual, crime, etc.) and the total quantity of people is much more intricate than Mr. Wattenberg suspects. He seems to overlook that the costs of one-time capital expenditures are large or small relative to *income*, not population, as he elsewhere indicates that the pollution problem in a large part is a problem of *per caput* income, rather than population. Recent experience indicates that population and income *can* behave as though they are not causally related. Nonetheless, although the capital costs of research may not be a function of population, the capital costs of pollution abatement equipment and control systems in general surely *are*, as well as are current costs. The proper question then is not a comparison between total costs and total population, but a comparison of incremental costs (rates of increase in costs) of control with incremental population growth (rates of increase in population). If costs rise faster than population, then we are overpopulated. If costs of controlling pollution rise less rapidly, then we are not overpopulated. This means that overpopulation must be redefined in terms of rates of resource utilization and any social costs associated with it, and not in terms of total resources. While there has been no test of this proposition that I am aware of, I sus-

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pect that the costs are rising faster.

One other critical comment: It surely is less than analytical to suggest that ". . . in an uncanny way it usually works out that every child in America has his own set of parents, and a school to attend." As a matter of fact, that statement is patently incorrect. In any event, the problem is one of *quality*. Furthermore, it *is* likely to be more difficult "for 300 million Americans to pay for quality schools for their children than it is for 230 million to buy quality schooling for their offspring," since school costs rise faster than population (at least currently).

In general, doing nothing or something about environment problems *necessarily* costs society in both cases. Doing nothing permits the social costs of pollution, e.g., to be distributed helter-skelter, with inequitable distributional impacts. Doing something to "internalize" these social costs will affect everyone's budget.

The point which Mr. Wattenberg fails to make is that there is a trade-off or "rate of substitution" between the quality of the environment and the *quantity* of people in it. I cannot emphasize too much that the world has reached a point where environment quality and the quantity of population are *substitute* economic goods, and *not* complements as he appears to suggest. The problem is to find that trade-off which minimizes the total cost to society of population growth and of maintaining a livable environment.

Haynes C. Goddard
University of Cincinnati

"The Nonsense Explosion" is the perfect title for Ben Wattenberg's material, but not as a description of the population issue. Some political figures may be using the ecological crisis and the population explosion as smoke-screens for Mr. Wattenberg's "legitimate concerns." But they won't succeed anymore than he succeeds in dismissing the population problem with his statistical legerdemain.

Solving our population problems won't take care of pollution, housing shortages, civil rights or any of the other problems that besiege us. But if we fail to curb our population growth, each of the problems will be exacerbated and may defy solution.

Wattenberg's myopic provincialism is disheartening. He treats the US as a privileged island with some divine birthright to keep adding lustful ap-

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petites to consume a disproportionate share of the world's resources and to contaminate a disproportionate share of the biosphere.

When he invokes arguments about habitable space, one expects him to point out that all of the world's 3.5 billion people could be put in the state of Texas with 2000 square feet apiece. Habitable space has practically no meaning. The concern is "life support space." For example, if each of us had immediately adjacent to our homes the space we actually use to produce and distribute our goods, dispose of our wastes, etc., we could crowd 5000 people onto Manhattan Island.

Wattenberg doesn't think that Vietnam is our greatest crisis in "a hundred years." It may or may not be, but the problem hasn't disappeared by charging critics with hyperbole. Neither will the population crisis disappear and Wattenberg's article is on the same level of service as Moynihan's "benign neglect" memorandum.

Lewis C. Frank, Jr.
New York, N.Y.

Natural resources *are* limited and the American 5 percent of the world's people cannot continue indefinitely holding out promise of better things to come to the 70 percent impoverished while we base our material prosperity on eating up some 50 percent of world resources consumed. In an age of rapidly rising expectations, political turmoil is inevitable unless the pressures of population are eased very quickly. Why suffer more or suffer less when there is really no need to suffer?

Whatever the population numbers game employed, the fact is that no one can afford to look at the ecological crisis from a national boundaries standpoint. Arguing about whether there is an *American* population crisis is absurd, and makes as much sense as predicting Pacific Coast storms on the basis of data collected only after a weather system passes within our national boundaries.

Mr. Wattenberg argues that it is people who create and build by providing taxes and incentives. And it is people, of course, who create problems of waste, war, hunger and slums. And crowding. The problem is that problems multiply and grow *out of proportion* to rising numbers. Quantitative increase creates qualitative problems whose very size tends to create perplexity and apathy and blocks attempts

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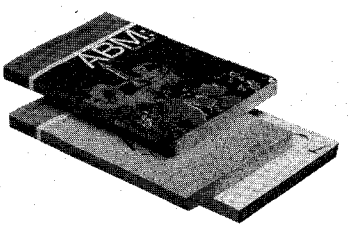

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at solution. Be it garbage or food supply, the size of the problem tends to overwhelm the organization to meet it. An interesting example is the atomic bomb which raises new questions about the survival of the planet and potential destruction of the social fabric. It is not just a bigger bomb than a TNT bomb, you see. Yet, many people, including high officeholders, still talk of war in old-number terms. War is still an alternative because people don't grasp the fact that size imposes new, complicating demands on relationships.

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The argument is put forth that more people breed more need to solve problems. So what? By that token the yellow fever problem should not have been solved by reducing the mosquito population, but by spreading yellow fever around the US so that enough people would be affected by it to demand action. Delirious!

And Yosemite: It isn't really crowded because of over-population, but because of better highways, vacations etc. Similarly, I suppose, there is no overcrowding on the New York subway due to numbers of people in New York. It is simply because those people are *using* the subway. That helps.

In short, in his naivete or in the zest of the professional advocate proving logic even in absurdity, Mr. Wattenberg seems to have forgotten that human factor of apathy, although he does frost his rhetoric with calls to better efforts. I am reminded of arguments about the population crisis engaged in in Brazil, where everyone scoffs and points to the huge, little exploited steamy Amazon basin. Aside from the question of its delicate ecological fabric, I always asked: Would *you* go there to live? "Not me" – always was the reply. And can I now believe that the population problem is a myth? From my Coney Island campsite in the Yosemite Valley, I scream: NOT ME.

Ira J. Winn
San Fernando Valley State College
Los Angeles, Calif.

Ben Wattenberg's most appalling assumption is that natural resources are sufficiently abundant to maintain our country's population growth. To slant his appraisal he quotes a demographer to the effect that we have been running out of oil for about 60 years. The facts are that our present knowledge of the distribution of minerals in the earth's crust is sufficient to predict reasonably how much mineral wealth is extractable with our present technology and, to a great extent, any foreseeable technology. Assuming optimistic projections on nuclear energy sources and better technology, the quantity of extractable minerals in the earth compared to present consumption spells deprivation of some minerals even in this country early in the next century. To meet the current needs of our population, we must already import much of the minerals we use. Does Wattenberg think we have the right to spend the best resources of Canada, Latin America, Africa, Asia, and the Middle East so that we can have a broader tax base to fight pollution?

Lawrence F. Rooney
Bloomington, Indiana

Nowhere in Wattenberg's article could I find the word *food!* But only if we eat our own feces will we have the infinite supply this implies. Certainly, our population will eventually level off (so will India's), as has Europe's, but Europe today cannot feed itself! On balance, it imports the food it needs. That point will be reached here too; it is stupid to assert that the US can support two to four times its current population. At that level it would be Canada who would support us.

Albert S. Kirsch
Department of Chemistry
Brooklyn College

Ben Wattenberg's highly perceptive comments on the population question in the United States are most welcome. This current fad of population determinism is extremely dangerous. It falsely and without proof blames human fertility for hunger, poverty, environmental deterioration and numerous other social ills confronting our nation today. A year ago I merely laughed at some of the unfounded cause-and-effect relationships advanced by the "apocalyptic demographers." But now I believe their serious distortion of the social effects of population growth is making it increasingly difficult to effectively deal with our actual problems. It especially angers me to hear otherwise reasonable men attempt to equate the crowding of recreational areas and the pollution of air and water with increased numbers alone. Unfortunately, the battle cry for limiting family size as a panacea for our social ills has been picked up by the students and communications media. I only hope the reasoned voice of Mr. Wattenberg will fall on receptive ears.

David E. Kromm
Kansas State University

It was gratifying to read Ben Wattenberg's perceptive article. I can add only a few points to his lucid arguments: The population growth may prove to be a blessing in disguise – forcing to the surface issues submerged and avoided for decades. The real problem so frightening to some is the system

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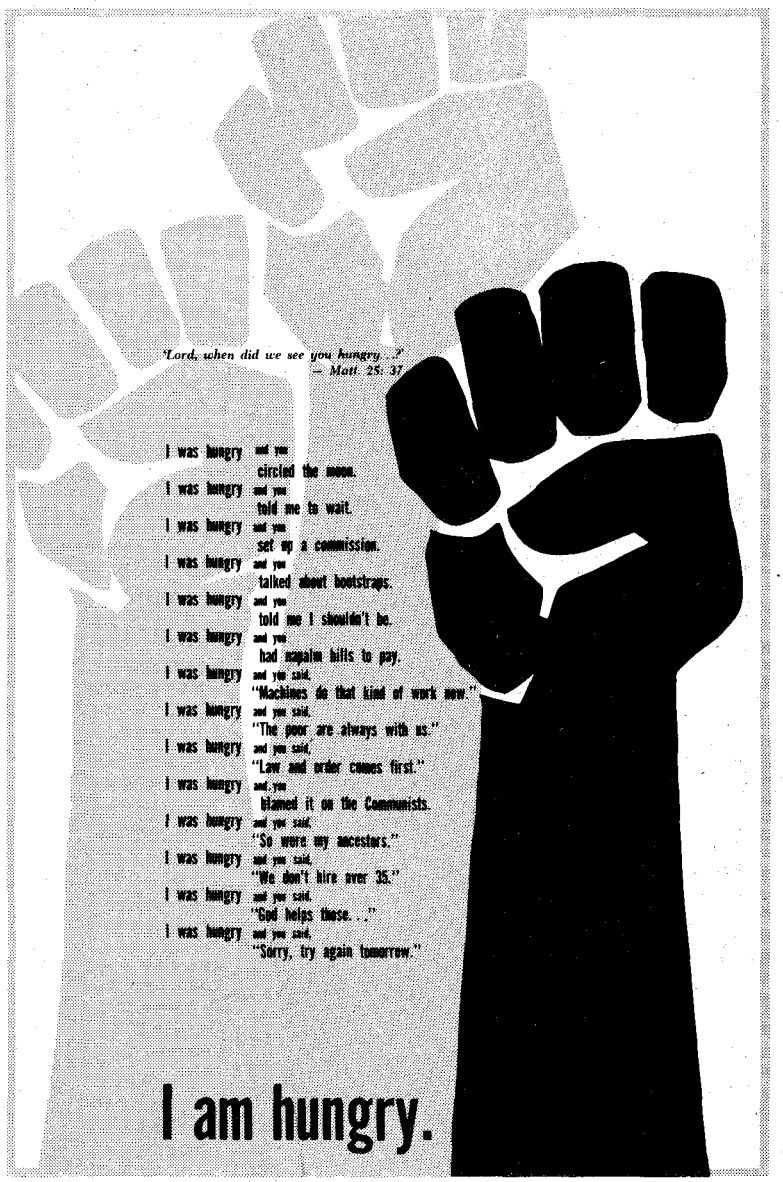
"Lord, when did we see you hungry...?"
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I was hungry and you said, "The poor are always with us."
I was hungry and you said, "Law and order comes first."
I was hungry and you blamed it on the Communists.
I was hungry and you said, "So were my ancestors."
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I was hungry and you said, "God helps those..."
I was hungry and you said, "Sorry, try again tomorrow."
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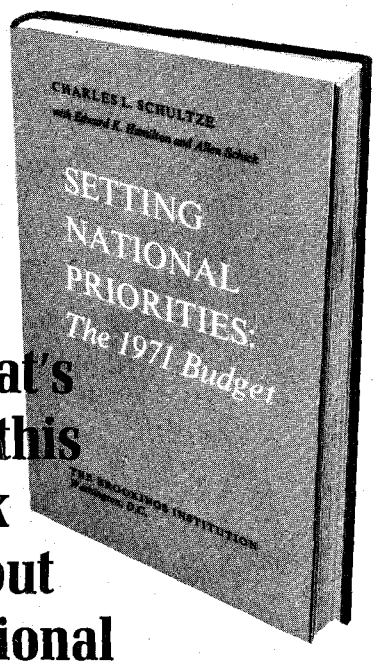

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of distribution of our wealth of resources. And the fact that 70 percent of all Americans live on just one percent of the land.

Lytle W. Robinson
Tucson, Ariz.

Thanks so much for your comment on "This Ecology Craze" (March 7) and more especially for Ben Wattenberg's "The Nonsense Explosion: Overpopulation as a Crisis Issue" (April 4-11). I'm glad at least one periodical is avoiding hysteria over our latest fad, *ecophilism* or *eco-escapism.*

Of the many other aspects to this ecology cop-out for the President and affluent white America, I should like to mention two more. One, economic growth must stop in order to enrich the quality of life and preserve the environment, so the *ecophiliacs* pontificate. Of course, this means that without a radical redistribution of our present income and wealth the blacks and other underclasses are consigned permanently to poverty and deprivation. If there has ever been a trickbag, this eco-talk is one.

Two, fear of *eco-effeteism* has caused *ecophiles* to deify the environment and the fascination and variety of the biosphere and to deflate man and the products of his technology. Is this neo-animism and neo-pantheism possibly a gesture of atonement by Americans for our horrible assault not only upon the Vietnamese people but also, more importantly, in terms of the stability of the American noosphere, upon the very fauna and flora of Vietnam? We atone for our destruction of the Vietnamese biosphere by fixating upon the preservation of our own flora and fauna. That's what I call eating up somebody else's environment and having our own too.

Kenneth S. Tollett
The Center for the Study of Democratic Institutions

Mr. Wattenberg's argument about "constant defense cost" is particularly astonishing. In the decade of the sixties, while the world population rose 20 percent, military expenditures increased 85 percent. As long as the military complex is permitted to acquire ever more expensive hardware which reaches obsolescence with bewildering speed, the concept of "constant defense cost" is unattainable. In order to have funds available for clean water, clean air and other environmental improvements, a drastic reordering of priorities is required. And it must start *now.* We can't wait until there are more people, paying more taxes which, according to Mr. Wattenberg, will make surplus funds available to pay for pollution control. By that time pollution will have done us in.

Ursula R. Freimarck
Ann Arbor, Mich.

Kauffmann, *from page 20*

of that theory holds that material is less important than its cinema treatment, thus these directors have often taken stock *genre* material, like American thrillers, in order to prove that film art can be made out of the film's "own." Sometimes (as in *Shoot the Piano Player*), the transmutation succeeds; more often, the result is only a combination of smugness and camp, accompanied in the theater by the purring of the viewer who gets the "in" references and relishes the exaltation of pop over pompous old "elitist" art.

When the transmutation fails, as it does in *Mississippi Mermaid* and as it does in most cases, the *auteur* theory shivers. André Bazin, the late French critic who was early associated with the theory and who was Truffaut's mentor, wrote a corrective article in 1957 which is generally disregarded by his disciples. Bazin said: "All that [the *auteur* supporters] want to retain in the equation *auteur plus subject = work* is the *auteur,* while the subject is reduced to zero. . . . *Auteur,* yes, but what *of?*" The answer, in regard to Truffaut's recent films, is: Not much.

Note. From April 12 through July 20 the Film Department of the Museum of Modern Art in New York is running a major series: ninety Japanese films, usually one a day with repeated showings of each on that day. The series has been arranged by Donald Richie, the outstanding American expert on Japanese films, and it includes many pictures that have never been seen here and may never be shown here again. This is an unparalleled chance to acquaint ourselves with another nation's film art. Japan is only 6,000 miles away; perhaps if it were 238,000 miles off, like the moon, government funds might be available to make these films – and those of other nations – continually accessible.

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We demand total withdrawal of ALL our fellow American soldiers from Vietnam now. Not just combat troops, not just ground forces, but ALL troops.

We demand total withdrawal now of all the American soldiers advising the armies of dictatorships throughout Latin America and Asia. We don't want Guatemala, Thailand, or Bolivia to become the Vietnams of the 1970's. One Vietnam is enough; too many people have been killed already to preserve America's overseas empire.

As men who have served in the armed forces, we have seen firsthand the dangerously growing power of American militarism. As soldiers and as citizens, we believe we have a special obligation to speak out against it.

This statement signed by 470 officers and men as of 4/10/70
Partial list of signers:

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CPT William Halal, Air Force Reserve
Lt(jg) Francis A. Toth, Navy Reserve
ENS James V. Calio, Jr., Navy Reserve
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SP4 Lars Schoultz, Army Reserve
PVT Raymond J. Velati, Marine Reserve
SN Richard Straub, Coast Guard Reserve
LCpl Dave Hope, Marine Reserve
PFC Paul Bell, Army Reserve
PFC George Denise, Marine Reserve
PS3 Henry Darmstaat, Coast Guard Reserve
SP4 John S. Glascock, Army Reserve
PFC Larry Cullen, Marine Reserve
BM2 Glenn E. Torbett, Coast Guard Reserve
SP4 Jonathan Peck, Army Reserve
CPL David Struven, Marine Reserve
PFC Herbert Castillo, Army Reserve
SGT Roger Stowers, Marine Reserve
PFC Philip Grattan, Army Reserve
LCpl Richard Hire, Marine Reserve
PFC Peter Lee, Army Reserve
LCpl Robert Falconer, Marine Reserve

(cut on dotted line)

To:

Reservists Committee to Stop the War
P.O. Box 4398
Berkeley, California 94704

☐ I'm not in the military, but I want to help G.I.'s organize against the war. Here's my contribution of $_____.

☐ I'm in the Reserves or the Guard. Please add my name to this statement and send me more information.

Branch of military_____Rank_____
Vietnam veteran? ☐

Enclosed is my contribution of $_____.

Name _____

Address _____

City _____State _____Zip _____

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